LEGISLATIVE COUNCIL

Thursday, 11 February 2016

The PRESIDENT (Hon. R.P. Wortley) took the chair at 11:00 and read prayers.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (11:01): I move:

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

Motion carried.

Bills

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Committee Stage

In committee.

(Continued from 9 February 2016.)

Clause 60.

The Hon. K.J. MAHER: I move:

Amendment No 7 [Emp–4]—

Page 53, line 23—

Delete 'Minister must, after consultation with the Commission' and substitute:

Commission must, after seeking the advice of the Minister

This group of amendments, Nos 7, 8, 9, 10 and 11, is in relation to the special legislative schemes. They will enable the establishment of state planning policies to ensure that the planning and development system takes into account the objects of other acts. These acts are already caught up similarly under the Development Act—for example, the River Murray Act, the Adelaide Dolphin Sanctuary Act, the Marine Parks Act, and the Arkaroola Protection Act, listed in clause 11 of the bill.

These government amendments, also newly inserted in response to a request to clarify the intent in relation to the role the state planning commission, will place responsibility for the development of the special legislative schemes with the commission rather than with the minister, although final approval will be issued by the minister.

The ACTING CHAIR (Hon. J.S.L. Dawkins): Before I call the Hon. Mr Ridgway, my advice is that the minister can move amendments 7, 8, 9 and 10 all together if he would like to, but amendment No. 11 has to stay separate.

The Hon. K.J. MAHER: I will proceed that way. I move:

Amendment No 8 [Emp–4]—

Page 53, line 30—Delete 'Minister' and substitute 'Commission'

Amendment No 9 [Emp–4]—

Page 53, line 33—

Delete 'Minister may, after consultation with the Commission' and substitute:

Commission may, after seeking the advice of the Minister

Amendment No 10 [Emp–4]—

Page 53, line 35—Delete 'Minister' and substitute 'Commission'

The Hon. D.W. RIDGWAY: I indicate that the opposition is happy to support the government's amendments. I think I said the last time that we sat that where we can take some of the responsibility away from the minister and vest it with the commission the opposition will support that, so on that basis we will be supporting these amendments.

Amendments carried.

The CHAIR: We now move to the Hon. Mr Parnell's amendment No. 33. I remember that the Hon. Mr Parnell pointed out that there was an error, where it was listed as clause 56; it is actually clause 60, page 53, lines 37 to 41, and page 54, lines 1 and 2. I flag to the committee that there is also an amendment in the name of the minister that fits within this. Initially, I will give the call to the Hon. Mr Parnell.

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

Amendment No 33 [Parnell–1]—

Page 53, lines 37 to 41 and page 54, lines 1 and 2—Delete subclause (4)

The intent of this clause makes a lot of sense. It is about incorporating into our land use planning system some regimes for the protection or management of land that exists in other bits of legislation, and the minister referred to the River Murray Act, then there is the Dolphin Sanctuary Act and, one of my favourites, the Arkaroola legislation.

The Greens certainly support the intent of clause 60. The reason I think subclause (4) needs to be deleted is that, effectively, it says that whatever interpretations the government chooses to give to those other statutory schemes, however it chooses to interpret those other pieces of legislation, when it comes to writing a state planning policy then that policy does not have to go through any further steps and does not have to come to parliament, for example—they can just do it.

That puts these policies under clause 60 in a very different category from the policies, for example, under clause 68: the design quality policy has to go through a level of scrutiny and has to go to parliament. The state planning policy under clause 59, the integrated planning policy, ditto, has to go through a level of scrutiny, including parliamentary scrutiny.

The Liberals inserted a new clause 59A—a most excellent amendment I will say to the Hon. David Ridgway, given that I am probably not on his Christmas card list this morning. That was the adaptive re-use policy and it is a good one. The Greens got in a climate change policy, and I think the Hon. Kelly Vincent got in a universal design principles policy, and all those will have to go through a process that involves some public consultation, including parliamentary scrutiny.

But, under clause 60, the government's rationale seems to be that, because it is a policy that is prepared in relation to a special legislative scheme, that legislation went through parliament, that went through a process and therefore any policy based on that need not go through an extra level of scrutiny. I just do not think that is the way we should go. I think we should treat these state planning policies under clause 60, the special legislative schemes, exactly the same way as we treat all the other state planning policies. One of the paragraphs my amendment seeks to delete is the paragraph that states 'does not need to be referred to the ERD Committee under this Part'.

The ERD Committee, that hardworking committee that met this morning, as it turns out, I think would be very interested to see what state planning policy the government has written based on other pieces of legislation, and they should be able to give that the once over. So, that is the reason why I have sought to have subclause (4) deleted.

I will just make the point that, because of the confusion over the numbering, this features as an amendment to clause 56. People might say, 'The LGA opposes this amendment.' Had it been the deletion of subclause (4) in clause 56, they would have been quite right because it would have undone heritage protection, and that is certainly not what we want to achieve. If people are thinking, 'The LGA didn't like it,' that was because they not unreasonably assumed that I was trying to delete heritage protection, because that would have been the effect of undoing clause 56(4), but basically deleting clause 60(4) means that any policies written under the special legislative scheme provision

will have to go through exactly the same public consultation and parliamentary process as every other state planning policy.

The Hon. K.J. MAHER: I move:

Amendment No 11 [Emp–4]—

Page 53, after line 38—Insert:

(aa) does not have effect unless it is approved by the Minister by notice published in the Gazette; and

It might be easier, in speaking to explain this, to respond to the Hon. Mark Parnell's amendment. This is a difference of opinion. It is the government's view that it does not require parliamentary scrutiny because the policy is derived from acts that have already been passed by parliament. I note that the Hon. Mr Parnell is of a different view, but that is the government's view.

The Hon. D.W. RIDGWAY: I have a question of the Hon. Mark Parnell on some of the notes I have in my folder here. In relation to your amendment, I will read what it says: 'The state planning policies that are to implement a special legislative scheme still will be referred to the ERD Committee.' These may have been some notes that you provided to us as your explanation. It says: 'go through a proper process of consultation and potential disallowance'. On the disallowance process, can you just refresh my memory? Is that a motion before both houses of parliament or is it just a motion by one member of parliament?

The Hon. M.C. PARNELL: I thank the honourable member for his important question and, like him, I am itching to get to clause 71, where we get to the subject of parliamentary scrutiny. The reason I have said 'potential parliamentary disallowance' is that, of course, this current bill effectively replicates, with some minor exceptions, the disallowance process under the existing legislation; that is, you have the gatekeeper being the ERD Committee. If the ERD Committee resolves that one of these planning documents should be disallowed then, only if the ERD Committee so resolves, it then goes to both houses of parliament and either can disallow it. That is basically the status quo. That is the system we have currently. I am actually seeking to amend clause 71—

The Hon. D.W. Ridgway: Which you are always trying to do.

The Hon. M.C. PARNELL: —which, the member reminds me, I always try to do. I have tried influencing the membership of the ERD Committee and the powers of the ERD Committee. I am now about to try to bypass the ERD Committee, but we will get to that when we get to clause 71. It is not that the committee does not have valuable work to do but, in my view, it should not be the exclusive gatekeeper.

I know it is a longish answer to your question but, on the potential disallowance, if the remainder of this bill, and especially clause 71 as drafted, comes into operation, the member should be in no doubt at all that no state planning policy will ever be disallowed, just like no development plan has ever been disallowed since 1994 when this act came into operation, because, when you have a government-controlled gatekeeper, that committee always does the right thing by the government, and motions to disallow planning instruments never succeed in the ERD Committee—that is just the way it is. That is a discussion we will have when we get to clause 71, but I think it is probably best described in the context of this amendment as a vain hope. It is not particularly a live issue at present.

The Hon. D.W. RIDGWAY: I indicate the opposition will be supporting both the government's amendment and the Greens' amendment.

The Hon. M.C. PARNELL: No, you cannot, because I delete the whole subclause.

The Hon. D.W. RIDGWAY: Well, in that case, I will make a decision on the run that we will be supporting the government and not the Greens.

The Hon. M.C. Parnell's amendment negatived; the Hon. K.J. Maher's amendment carried; clause as amended passed.

Clause 61.

The Hon. K.J. MAHER: I move:

Amendment No 12 [Emp–4]—

Page 54, line 5—Delete 'Minister' and substitute 'Commission'

Amendment No 13 [Emp–4]—

Page 54, line 9—Delete 'Minister' and substitute 'Commission'

Amendment No 14 [Emp–4]—

Page 54, line 21—Delete 'Minister' and substitute 'Commission'

Amendment No 15 [Emp–4]—

Page 54, line 30—Delete 'Minister' and substitute 'Commission'

The government's amendments, also newly inserted in response to requests to clarify the intent to empower the state planning commission, will place responsibility for the preparation of regional plans for any planning region that is outside the area for which a joint planning board is being constituted with the commission rather than with the minister.

Regional plans are effectively equivalent to volumes of the planning strategy under section 22 of the Development Act. They already exist in relation to, for example, the 30-Year Plan for Greater Adelaide, the Eyre and Western Region Plan, the Far North Region Plan, the Mid North Region Plan, and the Murray and Mallee Region Plan.

Amendments carried; clause as amended passed.

Clause 62.

The Hon. K.J. MAHER: I move:

Amendment No 16 [Emp–4]—

Page 55, line 4—Delete 'Minister' and substitute 'Commission'

The planning and development code effectively replaces the current development plans throughout the state with one code, which allows for consistency, while being cognitive of the finer details. The code, like all designated instruments, will remain subject to the consultation and parliamentary scrutiny requirements of clauses 70 and 71.

The amount, also newly inserted in response to requests to clarify the intended role of the state planning commission, will place responsibility for the preparation and maintenance of the planning and design code—effectively, the rulebook proposed to be developed for the new planning system—with the commission rather than the minister.

Amendment carried; clause as amended passed.

The ACTING CHAIR (Hon. J.S.L. Dawkins): There is a stranger who cannot be in part of the chamber.

Clause 63.

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

Amendment No 2 [Ridgway–2]—

Page 55, after line 21—Insert:

(iv) support the adaptive re-use of buildings and places in cases determined to be appropriate under the Planning and Design Code; and

This is a further amendment to the adaptive re-use of buildings.

The Hon. K.J. MAHER: This amendment is one of a number moved by the opposition on adaptive re-use, which the government supports.

Amendment carried.

The Hon. K.J. MAHER: I move:

Amendment No 17 [Emp–4]—

Page 55, line 25—Delete 'Minister' and substitute 'Commission'

Amendment No 18 [Emp–4]—

Page 55, line 28—Delete 'Minister' and substitute 'Commission'

As mentioned previously, the planning and design code is intended to replace and consolidate many thousands of pages of development plans and also to incorporate some details around interpretation and the like which already exist in regulation in one location.

The code will provide the rules which apply to each of the layers, including zones already in use—for example, residential zones subzones cannot be referred to as policy areas, like residential foothills subzone—and overlays, like bushfire risk or flood. Overlays will be used to address the specific policy issues that cover multiple zones.

The government's amendments are also newly inserted in response to requests to clarify the intended role of the state planning commission. It will enable the commission rather than the minister to specify additional content for the planning and design code.

Amendments carried.

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

Amendment No 34 [Parnell–1]—

Page 56, line 6—Delete 'or numeric'

This amendment seeks to remove the two words 'or numeric'. It may seem a very odd couple of words to remove, but I think it actually goes to the heart of part of the problem with this bill as it has been drafted.

If we go back to first principles, the whole nature of this bill is to tell the community that they need to pay attention to planning policy, they need to have their input at the time the planning rules are being written. With planning rules we are talking, in particular, about the planning and design code, which is going to be the document that sets out the detailed zoning. It is going to set out building heights, for example; it is going to deal with setbacks from the street; it is going to deal with a range of numeric issues.

Subclause (4) provides that the planning and design code (and I paraphrase) can include as much wriggle room as the government wants in relation to technical or numeric requirements. To put it in a real, live example (and I have used it before but I think it is a good one) I will use Unley Road. With Unley Road, the government negotiated with the local community and it negotiated with the local council for a five-storey zone along Unley Road—five storeys, count them, take one glove off and count them, five storeys. What got approved was seven storeys. Why were seven storeys approved in a five-storey zone? Because the government allows wriggle room.

You would think that would not be so bad if the public were able, for example, to go to the umpire and say, 'Come on, umpire, don't let them get away with saying that seven storeys aren't seriously at variance when the rules are five.' Of course, it is seriously at variance. However, the government has written the current act and this bill in a way such that the community never has the right to go to the umpire in relation to these sorts of matters, and they write into the bill that the planning and design code can include wriggle room in relation to technical and numerical requirements.

It does not say, for example, 'not by more than 10 per cent'. It does not put any real limitation. It just states that the planning and design code might include 'provisions that provide for the adaptation or modification of the rules that apply in relation to a specified zone or subzone' by permitting the variation of a technical or numeric requirement within the specific parameters.

It all sounds very complicated, but what it basically says is that in the planning and design code they can write rules that allow for wriggle room—allow for far higher, far closer to the street or further back from the street. Whatever the problem might be, they are allowed to tinker with the numbers. The question that arises is: what confidence can the public have if we are engaging with

the government in writing planning rules when a wriggle room clause is put in which says 'and if they want to change the numbers they can'?

It actually goes to the heart, I think, of the government's true intention in this, that is, to have as little public input as possible. Yes, flexibility is something that we need to incorporate, but this would have been a far more palatable clause if it said that any attempt to push the envelope by more than a certain degree, however defined—maybe it is 5 per cent, 10 per cent or whatever—would trigger some public participation rights or trigger the ability to take it to court. That actually would have been a good outcome.

In other words, if the way that Unley Road had been resolved was that the Development Assessment Commission had said, 'Okay, it's a five-storey zone. Put in a five-storey building, you'll be okay. There won't be appeal rights. People can have their say about the design details, but five storeys in a five-storey zone is okay,' under this provision, and under the current provision, effectively seven storeys become okay and it is equally protected.

If this clause had been written in a way which said, 'If you come to us, you'll get five, no questions asked (or not many questions), but if it's seven the neighbours will all be able to appeal,' then that would be a sensible provision because what it would say is that the planning rules actually mean something and that people have a right to rely on them but that, in the interests of flexibility if someone wants to push the envelope, let them, but it is going to trigger public rights. That would have been a far better mechanism.

That is a complex set of rules. I have not drafted that. I have basically said to get rid of the word 'numeric' so that at least it will stop them tinkering with distances, heights and number of floors. That is the intention. If they want a seven-storey zone, zone it for seven storeys; do not zone it for five and hoodwink the public into thinking that five will be okay and then allow people to build seven with no public rights. That is the evil that I am trying to overcome here.

The Hon. K.J. MAHER: I indicate that the government opposes this amendment which, in the government's view, would unreasonably limit the capacity for the code to allow for councils to provide for local variations of a technical or numeric nature to recognise the unique character attributes of that area.

The code is subject to very significant requirements for consultation under the charter—for example, the council's ability to consult the community of any changes under clause 44, the community engagement charter, clause 45 and, of course, the role of parliament under clause 46. As well, these checks and balances are aimed to ensure this is not used as very blunt means to circumvent the policy intent of the regional plan.

The Hon. D.G.E. HOOD: Family First will not be supporting this amendment. It comes down to a philosophical position ultimately. The Hon. Mr Parnell, as he usually does, has made his case quite succinctly and somewhat persuasively. That aside, I think that you cannot get past the fundamentals of what is happening here. Our fundamental position is that we would see no problem with seven storeys, for example, on Unley Road, regardless of whatever zoning might apply. We have come to a point in this state where we need to release the shackles, not tighten them, and fundamentally that is the reason we will not be supporting this amendment.

The Hon. D.W. RIDGWAY: Welcome back, Mr Chairman. I have a quick question of the mover. He talked about some wriggle room and said 10 per cent. If you have, for example, a five-storey building, 10 per cent is half a floor. I understand what his intent is, but to have some wriggle room that is practical, that makes sense, what sort of wriggle room would he envisage in his mind as being satisfactory so that it is not overriding the community's view but actually does give a bit of room to wriggle? I am in some sense a little bit in agreement with the Hon. Dennis Hood, in that we actually need not to keep constraining activities but allow them to happen. What would you see as acceptable wriggle room?

The Hon. M.C. PARNELL: It is a very reasonable question, and I cannot give a clear answer.

An honourable member interjecting:

The Hon. M.C. PARNELL: No, because I just threw 10 per cent out there. What I was getting at was that if you have a development that is generally regarded as a good development—everyone realises that this particular area is crying out for this sort of development—but it happens to be very slightly out, the rules at present talk about 'seriously at variance' but there is no numerical or percentage basis on what that means. Using the current 'not seriously at variance', the Development Assessment Commission said that seven storeys are not seriously at variance with five. I think that is over the top. If they had said, 'Keep it at five, but you can put in another underground car park or something,' then maybe that would have been within the 'not seriously at variance' test.

It relates also to what the Hon. Dennis Hood said. I have not expressed a view about whether seven or five or 13 or two is the appropriate height for Unley Road. Others who live closer have strong views. Let's say I agree that seven is just right, that seven is a good height for Unley Road; let's say I do. I would want the government to write 'seven' into the planning scheme. What I do not want is, having written seven into the planning scheme, for there to be a nudge, nudge, wink, wink, 'We know that there's wriggle room. We know that you can just add two to whatever number is there.' That is what I am trying to overcome.

I admit that it is a really crude way of doing it, just by removing the words 'or numeric'. It is very difficult. What I do not want is for the public to be hoodwinked when they are consulting with government about what the zoning rules should be and find that you add 20 per cent or 30 per cent to any number that you find. That is why I say that, when it comes to the wriggle room clause that may well be inserted into the planning and design code, there is still the ability for technical changes.

But if they have gone to the trouble of putting a number in it—a number of storeys, a number of car parks, a percentage of open space that is required for the new residence—the number should stick. If we think it should be a different number, write a different number in, but do not just use the wriggle room clause to deliver seven storeys in a five-storey zone. I want to see seven storeys in a seven-storey zone. That is what I am trying to get at with this amendment.

The Hon. D.W. RIDGWAY: I indicate that at this point in time the Liberal opposition will be supporting the Hon. Mark Parnell's amendment. We had some long discussion in our party room and we will be supporting it at this point.

The Hon. J.A. DARLEY: I indicate that I will be supporting the government's position. I can cite an example on Greenhill Road, on the southern end near to Fullarton Road, where in recent times the government increased the height limit to 10 floors. In my experience, no-one would build 10 floors today. Then all of a sudden the 10 floors were reduced to three, and that seems to be almost as ridiculous. Common sense should prevail in that situation, so I will be supporting the government's position.

The Hon. K.L. VINCENT: Just briefly, Dignity for Disability will support the Hon. Mr Parnell's amendment on this. We think that he makes a very persuasive case. I also take the Hon. Mr Hood's point about not wanting to go too far in terms of restricting development, but at the same time, with respect to him, he might not have a problem with seven floors on Unley Road (I think that was the example he used), but other people might. Ultimately, I think the crux of this bill is about giving people greater control over the development that happens in their communities and giving them some avenue for recourse if something they do disagree with does go ahead. For that reason, we support the Greens' amendment in this particular case.

Amendment carried; clause as amended passed.

Clause 64.

The Hon. K.J. MAHER: I move:

Amendment No 19 [Emp–4]—

Page 56, line 33—Delete 'Minister' and substitute 'Commission'

This amendment is also inserted in response to a request to clarify the intent to empower the state planning commission and will enable the commission, rather than the minister, to develop or adopt guidelines for the interpretation or application of criteria set out for designation of a local heritage

place in the planning design code. The commission will be required to seek the advice of the South Australian Heritage Council in developing or adopting guidelines for this purpose.

This clause represents no change from the existing Development Act, section 23(4), regarding the criteria for listing, and section 25(12), requiring consultation if a person's land or property is proposed as a local heritage place. The clause also does provide for more consultation by requiring that, if a place is proposed as being subject to a heritage, character or preservation policy, all affected landowners must be consulted. In other regards, heritage is considered by the government as a sufficiently important topic that, if it is to be revised, it should be subject to its own review.

The Hon. M.C. PARNELL: I will be supporting the government amendment on this, but I do have some questions on this clause and some observations as well. My first question is whether the government can guarantee that every place that is currently listed as local heritage under the current development plans will be transitioned as local heritage places into the planning and design code.

The Hon. K.J. MAHER: I am advised that is the intent. It is a matter for implementation, but that is certainly the intent.

The Hon. M.C. PARNELL: I thank the minister for his answer and I am very pleased to hear it. I am not a suspicious person by nature, but I know, for example, that when they rewrote the federal heritage protection rules a very big list when transitioned to the new regime became a very small list; in other words, a lot of places got dropped off.

I might say at this point that my original intention was to move the deletion of clause 64. Before people think that the Greens do not care about heritage, the difficulty was that we do need to keep the level of protection that is currently there. I do not have the exact words of the expert panel in front of me, but they talked about moving heritage onto an entirely new footing. This does not do that. The minister suggested just now, I think, that future legislation is something that is likely to happen in relation to heritage.

I would strongly urge the government to sit down with the National Trust and other heritage groups and try to negotiate this new way of dealing with heritage. For example, one position that has been put to me is: get rid of local heritage out of, effectively, local planning schemes. Get rid of it out of there, move it all to the state level and maybe have a subdivision of state heritage called 'local heritage', but use some of the provisions in the current Heritage Places Act, which include public nominations—a whole range of things that do not currently exist here. I think this is an area that is crying out for reform.

The other point I would make, as both a member of parliament and a member of the Environment, Resources and Development Committee, is that I often receive correspondence from people in relation to local heritage. The correspondence falls into two categories. Category A is, 'Those (expletive deleted) people on the council have listed my place as heritage. It's an outrage. It must be removed from the list instantly.' Another form of correspondence we get, for example, is the good citizens of Prospect are writing to many of us at the moment saying, 'The heritage experts recommended over 80 properties for local heritage listing and only 20 are being progressed.' People are complaining that that is a sellout of the system.

I have been to a number of hearings of the Environment, Resources and Development Committee where we have to try to grapple with these issues as non-heritage experts. Because the heritage list is effectively at the back of the development plan—it is an appendix or an attachment to the development plan—changing the list is effectively a Development Plan Amendment. Under the act, development plan amendments go to the environment committee and the environment committee is not the best placed committee to say whether the house at number 13 is deserving of local heritage listing or whether it might be better off as state heritage, be part of the national estate or maybe it is world heritage. It is a difficult thing for members of parliament to resolve.

But what does stick in the craw is where you have this heritage consultancy industry of people who are expert in the field and who make recommendations and then, on political grounds, their recommendations are not accepted.

I remember Adelaide City Council some years ago had pretty much a blanket position that if a person did not want their house heritage listed, they were not going to put it on the list. In other words, it became an owner nomination. If you were happy to have it on the list, it got on the list. If you were not happy, it did not.

You have to remember that the reason we protect heritage is not for the benefit of the individual landholder, it is for the benefit of the community. The community benefits from having an historic precinct or historic houses and that is one of the reasons we actually impose restrictions on the property owner.

People might say that any restriction on property owners is onerous. Welcome to the bill. This planning legislation is all about putting restrictions on property owners. It is about the public interest interposing itself between individuals and their natural inclination to make as much money as they can from their property. If there was money to be made building abattoirs in Burnside then people would do it. The planning system says that is not such a good use of the land in Burnside so we do not allow it. That is what the planning system is all about.

People who own heritage properties pay whatever they pay on the basis that they know it is heritage listed and they know they cannot knock it down and build a block of flats. That just comes with the turf. A lot of people are very proud to live in heritage houses. They love it. They love the fact that they are listed. They do what they can to maintain the heritage values. I just make the point that it does not make sense to delete clause 64 because we need to keep a system in place until the new system is introduced.

I would urge the government, as soon as possible, to introduce heritage legislation and to consult with the National Trust and other heritage groups and give some consideration as to whether the listing of local heritage in planning schemes is the right way to go because there are a number of people who think it is not.

The Hon. D.G.E. HOOD: I thank the Hon. Mr Parnell for his contribution. Obviously, as individuals we have vastly different views on this issue, but I welcome the discussion. I would just like to provide a brief response to some of what the Hon. Mr Parnell said, if I may, because, of course, like every argument, there are two sides to it.

I think the Hon. Mr Parnell used the words 'heritage experts' when he referred to the proposed DPA at Prospect at the moment where there were originally 80 or 83 properties, or something like that, proposed to be listed by the Prospect city council. The government has rejected a large portion of that, which I applaud by the way, and have got it down to 22, 23 or 24 or something like that now. But let me give the chamber a bit of an example of what these so-called heritage experts wanted to list on the heritage register out at Prospect.

I have a disclaimer up-front. I do not live in the City of Prospect. I lived there for about 20 years. I live in North Adelaide these days, but I do own property in Prospect and, to be absolutely explicit about it, one of the properties I own out there was to be listed on this so-called heritage register at Prospect, but I will not talk about my property yet. I will get to that in a moment. I will talk about another one.

One of the ones that was to be listed on the heritage register, according to the proposed DPA in Prospect, was a cream brick, 1960s, three-bedroom, one-bathroom, brick and tile home with no features, no heritage and built in 1966 or 1967. This so-called heritage expert decided that this was of heritage value because it was built during a period when that style of building itself was significant. There may be some that think that is appropriate. I think it is rubbish, frankly.

I will turn to my own property out there which I think provides another good example. These are heritage experts, we are told. My own rental property out there was listed as a 1920s villa. In fact, we know for certain that it was built in 1949, it is not a villa and, of particular note, the verandah on the front of the building was documented by the so-called heritage expert as having great heritage significance. By the way, the chain wire fence at the front of the property, which you would use to build a chicken coop, frankly, was somehow significant as well.

Anyway, the verandah at the front of the property had arches, and it was deemed to have been built in the 1920s and to have great heritage significance. Unfortunately for this heritage expert,

the previous owner of the house informed me that they built it in 1979 and had receipts to prove it. It was absolute fantasy, made up, not true. I do not know what the Prospect city council paid this genius who did this heritage work in that area, but they have a lot of questions to answer. No doubt this person charged a small fortune to do this and, frankly, largely just got it wrong.

Then a petition was run, completely separate from me, by a group of local residents who decided they would then petition the area to ascertain who was opposed to the DPA. I forget the number now—I may stand corrected on this—but in the order of 60 per cent of the properties (I am probably going under the figure, to be fair, as I think it was higher, but in the order of 60 per cent) directly affected by this proposed heritage zone objected to it, yet they are still planning to go ahead with it, and I understand that the mayor was meeting with the minister yesterday about it.

So, that is the real-world scenario of what actually happens. My property, listed as a 1920s villa, was built in 1949. A 1960s (1966-67) cream brick and tile home was to be listed as a great value heritage property in this area, when of course it is not. I spoke to the individual who owns that cream brick house—knocked on his door and spoke to him. He is a gentleman in his 50s, I presume, and he told me that it was the intention to one day demolish this property and build a couple of semi-detached properties as part of his retirement plan. If this DPA goes through and his property maintains that listing (which I do not think it will, thankfully—it seems like common sense has prevailed), he would be prevented from doing that, and I can tell you that his retirement would look vastly different.

There are all these examples where the theory and practicality are massively different. We are not dealing with amendments, so I do not have anything to either support or oppose the clause at the moment, but it is important that members understand that this is the real world of what is actually happening. In this one example 80-odd properties were listed down to 20 something. I am not sure of the merit of those last 20, frankly; I wonder if there are still mistakes in those last 20, but certainly the original plan was nothing short of crazy, in my view.

The Hon. M.C. PARNELL: I have a very quick response, and I absolutely agree with the Hon. Dennis Hood that there is always two sides. That is why I prefaced my remarks by saying that it is difficult for us as members of parliament, if we do not have particular training in an area, to necessarily fully appreciate the heritage values. The cream brick house example is an interesting one, because most of us would groan and think, 'Why on earth would you do that?'

I do not know the place or what was the report, but I had a bit of a road to Damascus moment a year or so ago when speaking to a member of the National Trust, Marcus Beresford, who many people might know as he is an active member of the community and very interested in heritage. When I said to him that a building he was seeking to protect I thought was rubbish and that the bulldozer was the best treatment, he made the very simple point that, if we do not protect any 50-year-old buildings, none of them will ever get to be 100 years old, when all of a sudden we do think that they are worth protecting.

I am not saying that that means you therefore protect every cream brick veneer house in Adelaide, but it raises an interesting question about at what point you say, 'Well, there is only X number left, we have demolished most, they have to be judged in their context as well.' So, whilst I am not defending the cream brick veneer example, I just make the point that, if you do not protect anything from each architectural generation, then you will not have the full suite in 100 or 200 years' time, so I just make that point as well.

The Hon. D.G.E. HOOD: I thank the Hon. Mr Parnell for his contribution. I know that it is a sincere position he holds, and obviously we have different views on this. I would just add that, in speaking with some of the senior people at the council there, including the mayor, they are making an argument that 1970s properties should be heritage listed because they have a particular style to them. I reject that. I do not know how other members of the chamber feel about that. That is legitimate and what they are aiming to do right now as the next phase of their DPA.

I do not know how much work has been done to that. I do not want to sort of overstate it, but certainly the mayor himself has said to me that he believes there is a place for heritage listing 1970s properties, particularly so-called art deco styles or other 1970 properties along those lines. I am not

overstating it; that is what he said to me. How far they have progressed with those plans, I do not know, but that is the next stage, if you like, in this whole discussion.

The Hon. D.W. RIDGWAY: While we are having this discussion around heritage, I thought I might just add a couple of comments. Interestingly, I think it was the former mayor of the City of Marion, Felicity-ann Lewis, who said to me, 'Of course, the cream brick 1950s houses are typical of the City of Marion, and that is local heritage.' I am not sure she was going as far as to say they should all be listed, but that is one of those sort of, if you like, suburbs as Adelaide grew, so I have some sympathy with what Mark Parnell was talking about. There is some character in part of Adelaide. I live in a house built in 1965, I think, so it is not quite that old, but it is 50 years old. I think the additions that I have made to it are worthy of listing but not the house itself.

The Hon. M.C. Parnell: The pizza oven?

The Hon. D.W. RIDGWAY: The pizza oven and all the other lovely things that my friends and family enjoy. I guess this is either a question to the minister or just a comment. I cannot remember the actual street number, but on King William Street there is a building where the roof is heritage-listed. I assume it is not just the corrugated iron but the truss work and whatever is underneath. You can only see it if you are in the high-rise building on the other side of the street, but the owner cannot do anything with the building because the roof is listed.

I would have thought, being a practical type, that the easiest way to deal with that is to get a very big saw, cut the roof off, and you can put as many storeys on as high as you like, build whatever you want underneath and still preserve the roof, if it is so important that it has to be preserved. I assume the reason it is listed is because of the trusses and that the actual structural part of it is probably 100 years old or more. But it was interesting; you cannot see it, so it is not like a building you can look at. It was the roof, and the only way you can see it is to be on the 10th storey of the building on the other side of the street and look down at the roof.

Again, I think we all agree we should preserve what is worthy of preservation but, at times, it seems that the rules are that prescriptive that, in preserving the roof, which may well be very worthy of preservation, that landowner was constrained in what they could do with the property.

The Hon. K.J. MAHER: I cannot give a response to the honourable Leader of the Opposition's direct comments about a particular roof. What I can say in general is I am sure that the government will be happy to look at any changes to the heritage regime and take into account people's views. I am quite certain that the leaders of the Greens and Family First parties will not wait to be consulted and will put their views very forcefully.

Amendment carried.

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

Amendment No 1 [Hood–1]—

Page 57, after line 3—Insert:

(4) In addition, an area cannot be designated under an amendment to the Planning and Design Code as constituting a heritage charter or preservation zone or subzone unless the amendment has been approved by persons who, at the time that consultation in relation to the proposed amendment is initiated under the Community Engagement Charter, constitute at least the prescribed percentage of owners of allotments within the relevant area (on the basis of 1 owner per allotment being counted under a scheme prescribed by the regulations).

(5) In this section—

prescribed percentage means 51% of relevant owners of allotments within a relevant area.

I think perhaps the easiest way to handle this is simply to read it out and then explain it. It is not a complicated amendment. I think people probably have a fair understanding of it already but, just for the sake of the record, my amendment seeks to insert subclauses (4) and (5). Subclause (4) reads:

> In addition, an area cannot be designated under an amendment to the Planning and Design Code as constituting a heritage charter or preservation zone or subzone unless the amendment has been approved by persons who, at the time that consultation in relation to the proposed amendment is initiated under the Community Engagement Charter, constitute at least the prescribed percentage of owners of allotments within

> the relevant area (on the basis of 1 owner per allotment [to deal with that issue] being counted under a scheme prescribed by the regulations).

Subsection (5) reads:

> In this section—
>
> *prescribed percentage* means 51% of relevant owners of allotments within a relevant area.

Basically, what this amendment would do is this: subject to the consultation period that is required under the community engagement charter, councils, under the community engagement charter, would be required to survey an area. If they were wishing to apply a heritage conservation zone or any other sort of building restriction, they would need to get 51 per cent agreement, essentially—51 per cent of the property owners in that area actually affected. So, the people outside are not relevant to the discussion, in terms of that 51 per cent. They are obviously welcome to have their views, but in terms of forming 51 per cent, it is only the people within that particular zone who would be considered.

For simplicity, we have made it one person per household. That would mean if the area was to cover 100 houses, you would need 51 of those property owners to agree that it should go ahead. That seems reasonable to me. If you are going to put a heritage subzone on a particular area, at least half of those people should agree with it; that is the bottom line. If you were to vote against this, effectively what you are saying is that a minority of people should be able to overrule the majority in terms of what happens to their own properties. I do not agree with that.

The Hon. K.J. MAHER: I thank the honourable member for his contribution; however, in the view of the government, zoning decisions should not only be determined by those who enjoy the local property franchise and who are accorded voting rights in the system. It should also be based on sound and logical policy objectives.

Heritage matters in particular should not be reduced to a question of percentages, but should include and take into account heritage expertise and applying the right criteria. While understanding the intent of the Hon. Dennis Hood's amendment and appreciating the background that the honourable member has put on the record, not just in this clause but in previous clauses, the government cannot support the amendment as drafted.

The Hon. M.C. PARNELL: I appreciate the Hon. Dennis Hood's intention. He has given a lot of weight to the rights of the people who own properties in an area that is potentially going to be listed as a heritage, character or preservation zone. I think it is an interesting approach. It is effectively a veto clause: if half the people do not like it, it is not going to happen.

I would like to extrapolate from that approach. The question might be: should our road be widened? Should the road on which we own property be declared a truck route? Should our homes be rezoned from residential to light industry? You can imagine there are a whole lot of other planning or zoning questions where the affected property owners would think, 'Yes, you beauty; I would love to be able to have a direct vote, and that my neighbours and I can veto a planning change.'

What I am trying to do in my amendments in this bill is to certainly enable the democratic process to be able to veto more bad decisions, and that is why I am going to be pushing very hard when we get to the parliamentary scrutiny clauses. That is an absolute joke at present, and the new system perpetuates that joke. I think that if we do want to empower citizens in relation to planning, there are a number of things that we can do.

Certainly, the ability to go to the umpire is something that is right through my amendments—the ability for people to challenge in the Environment Resources and Development Court—but I am particularly interested in people using the democratic process (the parliamentary process) in order to be able to challenge what people think are bad planning decisions.

To have a 'one property owner, one vote' system and a 51 per cent threshold, whilst I appreciate exactly where it is coming from, I think is misplaced, largely because the whole rationale of heritage protection, I think as the minister has said, is that it is a public interest test. It is not just about the private desires of private property owners, even if they have bought the big block thinking that it is going to be their superannuation policy and that when they retire they will knock down the old bungalow and build the block of flats and that that will be their super and retirement.

I understand the natural desire that people have to maximise the value and use of their property. But, ultimately, the heritage question is over the top of that; it is a public interest test. Whether or not the experts do a very good job—the Hon. Dennis Hood has pointed out some examples where you might question their judgement—ultimately I do not think the final arbiter of these things should be a straw poll of property owners; I think it should be through the broader democratic process, and in particular, through parliament.

If an attempt to zone an area heritage, character or preservation zone is unpopular, I want those residents to be able to go to their member of parliament and say, 'Member of parliament, can you please move, in parliament, to disallow that zoning change,' and let's have that debate through the democratic process. That is what my amendments, when we get to clause 71, seek to achieve.

I am not saying that these people should have no rights: just the opposite. I do not think that case by case, individual property owners exercising a direct right of veto over a zoning decision is necessarily the way to go. It disenfranchises people who, for example, might live in the area but not own property, it disenfranchises people who live around the area but who do not actually live in the zone. I absolutely appreciate where the member is coming from, but I do not think it quite works. If the member is interested in citizens being able to directly knock off a bad planning decision, then when we get to the parliamentary scrutiny provisions, that is the place to do it.

The Hon. D.G.E. HOOD: Just briefly, to answer the Hon. Mr Parnell's question, I am certainly interested in that—that is why I moved this amendment—but I am interested in doing it this way. I think that if you involve the parliament in it, it becomes a more convoluted process. At the end of the day, philosophically I believe that the individuals directly affected should have the biggest say, not any other body, whether it be this parliament or even a council or whatever it may be.

I think those individually affected are the ones who go to work every day to pay for their home. They are the ones who build their life in an individual property, they are the ones who have chosen to invest what are very substantial amounts of money these days in a particular piece of land, wherever it may be. They have borne all the responsibility and they should also enjoy some of the rights and privileges of owning that property; that is, finally, to at least contribute to a say over what happens to their own property.

The Hon. J.A. DARLEY: For the record, I will be supporting the Hon. Dennis Hood's amendment. However, I should indicate that I do have an interest in two properties in a heritage conservation zone at Toorak Gardens.

The Hon. K.L. VINCENT: To assist the council, for reasons that have already been quite well outlined by other members, Dignity for Disability will oppose this particular amendment.

The Hon. D.W. RIDGWAY: The opposition will be supporting the Hon. Dennis Hood's amendment; however, I do have a question. Perhaps I was not paying attention, but it says, 'constitute at least the prescribed percentage of owners of allotments within the relevant area (on the basis of 1 owner per allotment…being counted under a scheme prescribed by the regulations).' I guess it is 'the relevant area' part. Is it part of a suburb, is it the property owners who are directly affected? You could have someone a kilometre away in an area who really has no interest in what is happening but who has a view. I am just interested in his understanding of what that would mean.

The Hon. D.G.E. HOOD: I thank the Hon. Mr Ridgway for his question and also for his indication of support. I think the Hon. Mr Parnell has explained it better than I can but, as I understand it, how this process works in practice is that the council will draw up an area and it will include a certain amount of homes (I have said 100 for the sake of simplicity). Under those circumstances, under my amendment it is literally only those homes that would get a say. However, if more than 51 per cent agree to it going forward, that goes through the normal process, or the community gets involved and has their consultation. Does that answer your question?

The Hon. D.W. RIDGWAY: Yes, thank you.

The Hon. K.J. MAHER: I have outlined the government's position; the government will not support that. For the sake of completeness, since others are making declarations, although we are not supporting the Hon. Dennis Hood's amendment that will change the way heritage gets listed, I have an interest in the State Heritage Plan.

Amendment carried; clause as amended passed.

Clause 65.

The Hon. K.J. MAHER: For the record, clause 65 replicates the current provisions for allowing the planning and design code to designate trees or stands of trees as significant trees based on specific criteria. The provision has been used in five development plans to list trees in addition to those covered or trees controlled more generally through the regulations. This ability, together with the existing regulations relating to regulated and significant trees, is well understood and accepted by the community.

Given this fact, I will signal now that the government, at a future date, intends to recommit clause 3, with the intent that amendments Nos 3 and 4, moved in the name of the Hon. Mark Parnell, be reversed. The government is concerned that clause 3 as amended will upset the balance achieved in 2011 as a result of changes introduced by the Hon. Dennis Hood, between protecting signatories and allowing homeowners to undertake reasonable and expected development or remove inappropriate trees in inappropriate locations on their property.

The Hon. M.C. PARNELL: On clause 65, I am not at all surprised. I imagine there is a number of amendments that the council in its wisdom passed at the end of last year that the government might want to come back and get a second opinion on. What I will say in relation to significant trees—and I have moved a number of bills and amendments over the years—is that in terms of issues that directly concern people, and if the test of 'concern' is emails into the inbox, significant trees are right up there. Yes, they are contentious. There are people for whom having a significant tree is a barrier to development, and there are other people who, like me—

Members interjecting:

The Hon. M.C. PARNELL: There were a number of people who wept as they saw what happened outside Flinders University. I do not think anyone wept for the dead pine tree in my backyard. As people now realise, whilst it might have been a bit pre-emptive, the parliament was in the process of changing the law, but let's not go there. The law is now that dead pine trees are not protected, as it always should have been.

I will ask a question of the minister in relation to significant trees. Basically, the key provision the minister referred to is the ability to list by name individual trees or groups of trees in the planning and design code. That ability is here. My understanding is that that ability is in the existing regime as well but that not many councils have taken it on themselves to do it; in fact, I think there might have only been one council which went through its neighbourhood and pointed out the trees that it thought should be listed.

The Hon. K.J. Maher: Five development plans.

The Hon. M.C. PARNELL: I thank the minister who, for the record, has said that there are five development plans that actually include lists of significant trees. My question to the minister is: with the new planning and design code, is there an expectation that more councils or even that all councils will do a survey of the significant trees in their municipality and that they will then seek to have them listed in the planning and design code?

The Hon. K.J. MAHER: I am advised that we do not have an expectation. That will be a matter for implementation.

The Hon. M.C. PARNELL: I understand that it will be a matter for implementation and that councils will ultimately be responsible, but could I pose a further question. Does the state government have any thought to itself undertaking a review of significant trees in, say, the metropolitan area to start with, with a view to listing?

The Hon. K.J. MAHER: That will be up to individual councils. I guess the government is neutral on that issue.

Clause passed.

Clause 66.

The Hon. K.J. MAHER: I move:

Amendment No 20 [Emp–4]—

Page 57, line 34—Delete 'Minister' and substitute 'Commission'

This amendment, like the last number, has also been included in response to requests to clarify the intended role of the state planning commission. It will enable the commission, rather than the minister, to prepare design standards that relate to the public realm or infrastructure for the purposes of the act.

Amendment carried; clause as amended passed.

Clause 67 passed.

Clause 68.

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

Amendment No 35 [Parnell–1]—

Page 58, lines 20 and 21—Delete 'either as in force at a specified time or as in force from time to time' and substitute:

as in force at a specified time

We are now into subdivision 5 of division 2. Division 2 deals with all these planning documents called 'planning instruments'. Subdivision 5 contains the related and common provisions. The clause that I am seeking to amend is clause 68. I cannot remember exactly word for word, but it is certainly very similar to something that already exists. It is a sensible provision which enables a planning scheme, for example, such as the planning and design code, to be linked to other documents and to incorporate, wholly or partly, other documents.

I will give you a good example. I think it is regulation 15, from memory, under the current system. A list of, if you like, extraneous documents are incorporated by reference into the current development plans. A good example would be under the National Parks and Wildlife Act: they prepare management plans for each of our parks and those management plans are automatically incorporated into the development plan. If someone—the government usually, because it owns the national parks—wants to develop something in a national park, the test that should be applied is: what does the management plan say about it?

The reason that that is the question is that the management plan has been incorporated under the Development Act into the development plan, and therefore that becomes the question. In other words, being able to link extraneous documents that have been prepared, for example, under other legislation I think does make a lot of sense, but there is a sting in the tail. There are two stings in the tail and I have dealt with one of them in my amendment.

If we look at paragraph (b) of clause 68, it says that a designated instrument—basically a planning document—may:

refer to or incorporate wholly or partially and with or without modification, a policy or other document prepared or published by a prescribed body, either as in force at a specified time or as in force from time to time;

The first sting in the tail is 'prepared by a prescribed body'. We do not know who they will be. It could be any document prepared by the Property Council. I do not think that is their intention. I think their intention is any document prepared by a government agency under another piece of legislation; I think that is what they have in mind. It does not say that. It is anything prepared by a prescribed body.

That is sting in the tail number one. I am not proposing to change that; I am going to rely on the government's good sense. They could say a prescribed body is the Greens' policy platform and that the entirety of that is incorporated by reference into the state's planning laws. That would be an excellent move, but I do not see it happening.

I have not sought to undo that provision, but the bit that I am trying to modify is where it says, 'either as in force at a specified time or as in force from time to time'. The problem with 'as in force from time to time' is that means that these other documents can change—maybe they are documents that change annually, maybe they are documents that change occasionally—and they are automatically incorporated by reference into the designated instrument, as I understand it, without

consultation, without any ability for anyone to say, 'Hang on, that's not right. That shouldn't be the case.'

If, for example, we remove the words 'from time to time', and if we limit the incorporation of documents to a document that is 'as in force' at a particular date, then you can name the document and you could say that the zoning rules, the planning and design code for the City of Prospect (we have been picking on Prospect, haven't we?), and incorporate this open space strategy that was prepared, dated 1 January 1916—sorry, 2016. In 1916, there would have been a lot more open space in Prospect; there would have been horses and sheep.

If you do that, I think that is fair enough. People can go to that document. It is a named, numbered, identified document and you know exactly what it says. However, if this clause stays as it is, then you could just say, 'The local planning scheme for Prospect includes whatever the current version of the city council's open space strategy might be.' So they could change it, it would be automatically incorporated and, potentially, people have not had a chance to be consulted on it properly. You would hope that the council would go through the right process under the Local Government Act.

If you took another example of a body that is not obliged to consult in the preparation of their documents, what this says is that any further version of some extraneous document automatically becomes planning law. I just do not think that is right. If a document changes, you then update the planning and design code by saying, 'This document we want to incorporate has changed,' and you go through the proper process for consulting the community over changes to the planning and design code.

The idea of just incorporating by reference an extraneous document where we do not know what is in it, we do not know how it is going to change and it will not go through any further process of public consultation necessarily, I think is a bad outcome. One of the principles of law is that you should be able to know with some certainty what the law is at any particular point in time and, in relation to this act, you should also be entitled to be consulted on and have your say over changes to planning rules.

My amendment seeks to do nothing more than effectively remove that reference to 'as in force from time to time', and the words should be, 'as enforced at a specified time'. By all means, incorporate extraneous material, but do it by date and by version number and do not just allow it to be open ended that any subsequent change in the future automatically becomes part of the planning law of South Australia.

The Hon. K.J. MAHER: The government opposes this amendment. The government prefers the words that are in there. It is our view that the amendment would remove the useful ability to automatically update linked extraneous material. We think it would be unfortunate and unnecessary not to have that ability to automatically update. The legislation and regulations are peppered with references that we feel would become quite unworkable otherwise. It is our view that, rather than helping to keep our planning system up to date, this would force an amendment process every time an extraneous document was altered.

The Hon. D.W. RIDGWAY: The opposition is inclined to support the amendment for the simple reason that we like it actually giving us a specified point in time, rather than the open-ended nature of it. Although, having heard the minister's explanation that the document is peppered with a whole range of other references, it is maybe one of those areas where, while we are certainly prepared to—

The Hon. K.J. MAHER: Sorry, the statute book generally.

The Hon. D.W. RIDGWAY: Yes, and it may be one of those issues where, while we are very happy to support it today for what we believe is the right intention of the amendment, to have a specified time so that we know when that is and so it is not an open-ended change, I suspect, if there is something put to us the opposition will be happy to look at it, if there is a reason that it becomes unworkable. However, at this point in time, we are certainly happy to support the Greens' amendment.

The Hon. J.A. DARLEY: For the record, I will be supporting the Greens' amendment.

The Hon. D.G.E. HOOD: As will Family First.

Amendment carried; clause as amended passed.

Clause 69 passed.

Clause 70.

The Hon. K.J. MAHER: Am I moving amendment Nos 21 to 29?

The CHAIR: There is an intervening amendment of the Hon. Mr Parnell.

The Hon. K.J. MAHER: I will speak to amendment No. 21 but will cover all those. I move:

Amendment No 21 [Emp–4]—

Page 59, line 3—Delete paragraph (a)

As to amendments Nos 21 to 29, I am speaking to amendment 21 at this stage though, these amendments are inserted in response, again, to a request to clarify the government's intention to empower the state planning commission. If passed, they will enable the commission, rather than the minister, to initiate a proposal to prepare or amend a designated instrument either on its own initiative or on the request of the minister.

The minister will be newly required to act on the advice of the commission in approving a proposal to amend a designated instrument initiated by the CE of DPTI, another government agency or instrumentality, a joint planning board, a council, and other specified parties. The commission, rather than the minister, will also specify the other persons or bodies who must be consulted, the investigations that must be carried out, and the information that must be obtained in preparing a proposal to prepare or amend a designated instrument.

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

Amendment No 36 [Parnell–1]—

Page 59, line 32—After 'entity' insert:

and charge the person or entity reasonable costs associated with doing so

I think the government's amendments are very consistent with what we have been dealing with so far. My amendment basically seeks to prevent cost-shifting from the beneficiaries of planning changes to the public. Clause 70, because it is in this subdivision 5—Related and common provisions, it refers to all manner of planning documents, including everything from a state planning policy, a regional plan, the planning and design code or a design standard.

There is a list in subclause (2) of the people who can drive the process. The word 'initiate' is the word used here. The list makes sense. Changing planning rules can be initiated by the current minister, another minister, a chief executive, another government department, a local council, a provider of essential infrastructure or, if we get down to subparagraph (viii):

…a person who has an interest in land and who is seeking to alter the way in which the Planning and Design Code or a design standard affects that land.

That might sound complicated. It is called 'spot zoning'. Basically, the situation is that if a person buys a block of land—maybe it is a prominent corner block on the corner of arterial roads—with a view to building a petrol station or a little shopping centre or something, but the zoning does not actually allow that to happen, if the local community, through the council, thinks, 'Good idea. We need a little shopping centre on that corner,' the property owner, the would-be developer, goes to the council and says, 'Look, you just need to rezone my block from residential to commercial and that will allow me to put in my application for a little shopping centre.'

The local council would come back and say, 'Well, that's all very nice. We agree with you. A little shopping centre on this corner is just what this neighbourhood needs, but we're not paying for it. It's not our agenda. It's your agenda, so you pay for it.' We have had arrangements like that for some time. I think this bill, compared with the current act, makes it a bit more transparent. In fact, I think this is the first time where the act actually sets out that the owners of property can be the ones who initiate the rezoning.

I might be shown to be wrong, but I am pretty sure it is the first time we have been as blatant, if you like, about it. I am not saying it is a bad process. I think it makes sense that if the beneficiary is the person whose land is going to be rezoned then, yes, they can drive the process, but they should also pay for it. What it basically says in subclause (4)(b) is that, when giving permission for the property owner to initiate the rezoning, the chief executive will conduct the process on behalf of the relevant person or entity. My amendment seeks to add 'and make them pay for it too'. In other words, it is to make it clear.

The government might say that there are other provisions that pick up the ability to charge these third parties for the cost of the rezoning. I want to make it crystal clear in this section that part of the deal between the minister, the chief executive and the person who seeks to have their property rezoned is that all the costs are going to be borne by the property owner, and I think that is a very reasonable provision. I know there are other provisions that allow it to happen. I want to make sure it happens, and that is the purpose of this amendment.

The Hon. D.W. RIDGWAY: On a point of clarification with the mover, I presume that if somebody wants a property rezoned there would be a process with the local council, some fees and charges that would relate to applying to have a property rezoned. Why would we need to have your amendment as such because, if a property owner goes to a local council and everybody agrees that it needs to be rezoned, surely the local council would have a set of fees and charges that cover the cost of that rezoning?

The Hon. M.C. PARNELL: The answer is that yes they can and yes they do. Let us look at it from the other way around. Would you like the local council to be able to say, 'But he's our mate, the ratepayers can pick up the cost'? I do not want that to happen. Mostly it is done sensibly. Whether it is full cost recovery or not, I do not know as I am not close enough to it, but I want to make crystal clear that the words are 'and charge the personal entity reasonable costs associated with doing so'. From the honourable member's question, he obviously agrees that that is the right outcome, so the question for us is whether we incorporate it into this clause or not.

I think it is a sensible addition, and it makes it clear. The two categories to which it applies are the property owner, who seeks to have their land rezoned, but also the provider of essential infrastructure. I do not want to get too bogged down now with infrastructure schemes, which we will discuss a bit later, but again it makes it crystal clear that, if there is a rezoning for the purpose of developing essential infrastructure, then that agency doing the infrastructure should also pay for the rezoning. In a nutshell, that is what my amendment seeks to achieve.

The Hon. D.G.E. HOOD: We have just had quite a lengthy discussion about heritage and its impact on the community as such, and it was argued by some that heritage represents a public good, a general good, and therefore everybody should be considered when deciding whether or not we proceed with certain heritage restrictions. I marginally agree with that position—I do not fully agree with it—and can at least see the rationale for it.

That same argument also applies in this circumstance, and that is that if we use the argument given, for instance we decide that a shopping centre is good on the corner down the road, is not that also a public good? I think it is. It is not just one individual who will be using that shopping centre but rather multiple individuals, thousands presumably, so it also provides a public good. That being the case, I would question why should one individual developer (or group of developers, as the case may be) be burdened with the entire cost?

They are providing a public good. In most cases it would be appropriate that they would, but I do not think we should put in legislation a requirement that in almost all circumstances they would. For that reason, for almost the same argument twisted on its head, we will not support the argument. Whilst in most circumstances that is exactly what would happen, I would not like to see it prescribed that that is what would happen almost regardless.

The Hon. M.C. PARNELL: I thank the honourable member for his contribution and I understand the point he is making. Maybe I have shot myself in the foot by using the example of a shopping centre, because a more realistic example is the person who buys the parcel of land in a single-storey zone and seeks to have it zoned for a 10-storey area. The question is: does the public benefit from having a 10-storey block of flats rather than having a single-storey zone? I can tell you

who does benefit: the owner of the land. In my experience I am yet to see someone who voluntarily goes to the council and says, 'Can you please rezone my land so it's worth less?' It does not happen. People seek to uplift the value of land through rezoning.

Is it fair? It seems to me that, if someone is going to make an absolute windfall because their land that might have been worth X dollars per hectare is now worth 10 times X dollars per hectare, they are making a motser out of it. The only reason they have made that money is that the land was rezoned and is now worth more, so why should they not pay for the rezoning? That is where I am coming from.

I take the point that, with a shopping centre, if the community decides that it is a good facility there might be some merit in that, but the chances are that the land might have been zoned heavy industry and worth a certain amount; once it is zoned as a shopping centre, it will be worth a lot more. So, in effect you are capturing the increased value of land that results from rezoning and using something of it to pay for the rezoning process.

The Hon. D.G.E. HOOD: Just quickly, I do not disagree with the Hon. Mr Parnell. I think his logic is sound. My only point is that, because of the arguments we have just made, and I will not go through them again, I do not see any point in passing an amendment that makes that the case virtually every time. Why not leave the flexibility for the shopping centres and the like?

The Hon. D.W. RIDGWAY: I will indicate the opposition's position. I think the Hon. Mark Parnell can see that we are supportive of what he is trying to do, although I wonder whether it is not overburdening the system. Nonetheless, notwithstanding some discussions we might have on future clauses around infrastructure and the charges and who pays, in this particular instance the opposition does believe that, if you are going to get a benefit then, as it is a user pays system, the user should have to pay for the cost of that rezoning. I expect, as we have discussed, it happens now. I suspect in nearly every case that happens, but we will support the Hon. Mark Parnell because of our belief that the user should pay.

The Hon. J.A. DARLEY: For the record, I will not be supporting the amendment.

The Hon. K.J. MAHER: I indicate the government will support the amendment by the Hon. Mark Parnell. I move my further amendments Nos 22 to 26:

Amendment No 22 [Emp–4]—

Page 59, lines 4 and 5—

Delete 'on behalf of the Minister (at the direction of or with the approval of the Minister)' and substitute:

on its own initiative or at the request of the Minister

Amendment No 23 [Emp–4]—

Page 59, line 8—Delete paragraph (a)

Amendment No 24 [Emp–4]—

Page 59, lines 9 and 10—

Delete 'on behalf of the Minister (at the direction of the Minister or with the approval of the Minister)' and substitute:

on its own initiative or at the request of the Minister

Amendment No 25 [Emp–4]—

Page 59, line 11—After 'Minister' insert ', acting on the advice of the Commission'

Amendment No 26 [Emp–4]—

Page 59, line 12—Delete subparagraph (i)

The Hon. K.J. Maher's amendments carried; the Hon. M.C. Parnell's amendment carried.

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

Amendment No 37 [Parnell–1]—

Page 60, after line 2—Insert:

(ba) to the extent that paragraph (b) does not apply, in the case of a proposed amendment to a regional plan that has been prepared by a joint planning board where the amendment is not being proposed by the joint planning board—must consult with the joint planning board; and

Amendment No 38 [Parnell–1]—

Page 60, after line 8—Insert:

(bb) to the extent that paragraph (b) does not apply, in the case of a proposed amendment to the Planning and Design Code that will have a specific impact on 1 or more particular pieces of land in a particular zone or subzone (rather than more generally)—must take reasonable steps to give—

(i) an owner or occupier of the land; and

(ii) an owner or occupier of each piece of adjacent land,

a notice in accordance with the regulations; and

These are fairly simple consultation clauses. Amendment No. 37 ensures that a joint planning board will be consulted about planning policies that affect them, and amendment No. 38 ensures that the owners of land will be consulted in relation to changes to planning policies that affect them, so there are two issues there. The joint planning board issue is pretty straightforward. It just makes sense. It is not onerous. You have just got to talk to people who are also decision-makers and have a stake in it, so I am hoping that will not be contentious.

Amendment No. 38 is a bit more complex, and I will just make the point that 38—and I hope the Hon. David Ridgway has this in his extensive notes—is pretty much the same as one that we have supported in the upper house before, and one that certainly the Liberals supported before. It is to overcome the idea that people can have their houses rezoned underneath them without being informed as to what is going on.

When I have raised this in parliament in the past, I used the example of a man up in the northern suburbs who woke up one morning to discover that his house was zoned 'flood plain' when, the night before, it had been zoned 'residential'. His first question to me, as his pro bono environmental lawyer, was: 'How can that happen? How can you have a system where they can rezone your house and not have to tell you about it?' The answer is: that is what the Development Act says. There is no obligation to directly notify affected people about changes to planning rules.

We have to be a bit careful in relation to this because there are changes to planning rules that are of general application and affect everyone in the whole state, and then you have changes to planning rules that are of fairly narrow consequence. Whilst I think everyone should have the right to know about changes to planning rules that affect the whole state, you do not do that by letterboxing every house in the state, for example. There are other mechanisms.

We are going to have the portal. From previous amendments that have gone through and ministerial assurances, we are going to have a system where you can sign up to be told about planning changes in your local area, and that is going to be one of the good things about the planning portal. Nevertheless, when you have changes that affect a limited number of people, it seems to me only fair that they go to some lengths to draw the attention of those people to the proposed changes. The way I have worded this amendment is that the authorities have to take reasonable steps to give owners and occupiers of land or adjacent land a notice in accordance with the regulations.

You have different ways of directly notifying people. I guess the most personal way is when someone knocks on your door and has a conversation with you about it. I am not proposing that that would be necessary in terms of changes to planning rules, and that every house in the heritage preservation area of Prospect has to be doorknocked—although the Hon. Dennis Hood might think that is a very reasonable approach.

You can work down the pecking order. You could have directly addressed mail. I am not sure how long it would take to arrive under the current mail system, but maybe you could post a letter to the named person, such as the ratepayer, for example, or the occupier. You can also notify people

in other ways. It might be a notice in a council newsletter that we all routinely get put in our letterboxes.

I have not been prescriptive about what level of notification is required, but it seems to me just wrong that really important changes that affect people can come into effect with them oblivious to it. At present, the only notification that is required for a change to planning rules—'rezoning' is often the shorthand that we use; let's say rezoning—is in the *Government Gazette* and in a newspaper generally circulating in the district.

While I do not know their names, I am told there are some people who do not read the *Government Gazette*. A similarly small number get as far into the Public Notices section at the back of *The Advertiser*. Whilst historically the way the state has communicated with citizens is by the *Government Gazette* or a local or statewide newspaper, I just do not think that cuts it anymore.

As the Hon. Dennis Hood talked about in relation to his specific heritage item, we are talking about changing the rules that apply to individuals and how they can use their land. I have limited it to changes 'that will have a specific impact on one or more particular pieces of land in a particular zone or subzone (rather than more generally)', so I have kept it fairly open.

We have had some statewide changes to planning laws dealing with rubbish dumps, and we have had a statewide wind farm DPA. I am not expecting that every single person has to be directly notified, but if it is a more limited application, then I think we should make the authorities go to some lengths to make sure that affected people know about it. Although I have not specified it, in my mind it is something in the letterbox.

Whether it is part of a regular council newsletter, or whether it is directly addressed mail, or whether it is something like if the rate notices are coming out and maybe you bung it in there, at least take some effort to tell people about changes. I say again: this did have the general support of the Legislative Council when we last debated it, and I am hoping that position has not changed.

The Hon. K.J. MAHER: I indicate the government does not support this amendment. It is our view that it will add unnecessary red tape and complexity and would tend to displace the community engagement charter, which is the most suitable avenue for engagement and consultation matters.

The Hon. D.G.E. HOOD: Can I just ask a question of the government, if I may, regarding this. In circumstances like I have just described, for example—the heritage conservation zone being sought to be applied in the City of Prospect—it may be unfair to ask the government this, as it is not their amendment, but I am hoping they can give an answer, because I am genuinely not sure which way to go—

The Hon. D.W. Ridgway: They have a view on lots of other things.

The Hon. D.G.E. HOOD: Well, they do, that's right. I am genuinely not sure which way to go on this one at this point. How would that play out? Why would the government oppose it in those circumstances? What is wrong with people knowing?

The Hon. K.J. MAHER: The government is not saying that the consultation would not be required. What we are saying is that clauses 44 to 46 of the bill requiring the community consultation charter and then parliamentary scrutiny in developing the community engagement charter would be the most appropriate avenue for that to happen.

The Hon. M.C. PARNELL: Can I just say that I agree with the minister. The charter is going to be where the detail of how people are consulted is located; the charter will say, 'This is how you tell people their house is about to be rezoned.' My amendment is effectively guaranteeing that the charter will cover this issue, because there is nothing in clause 44 at present that says they are going to have to do that.

So, yes, I agree, but the detail—whether it will be a letterbox drop, whether it will be some other form of communication, whether it will be emailed to people who have registered, who knows what it could be—will be in the charter. The obligation to consult people before you rezone their houses is in this amendment.

The Hon. D.W. RIDGWAY: The obligation to consult or the obligation to advise?

The Hon. M.C. PARNELL: Good question—effectively, to notify. It provides, 'must take reasonable steps to give an owner or occupier of the land…a notice in accordance with the regulations'. In other words, I have not been specific. The minister is saying it should be in the charter—well, charter or regulations, it does not matter. If he wants to change it to charter, I am happy to do that if you want to do amendments on the run. However, basically all you have to do is tell people this is happening, and then if they choose to engage that is up to them. If they do not want to engage they will not, but at least they cannot say, 'I never knew, I never knew this process was underway, nobody told me.' That is the evil I am trying to overcome.

The Hon. D.W. RIDGWAY: On that basis, 'never knew' is one side of the equation and 'didn't make an attempt to notify' is the other side of the equation. This amendment does require some attempt to be made to notify, to take reasonable steps to give notice, and the opposition will be supporting the amendment.

The Hon. D.G.E. HOOD: I indicate that at this stage we will also be supporting the amendment. I see no problem with people being notified. I do not want to pick on Prospect, but we will go back to the example there (I think that is the example the chamber is familiar with). In that example, to be fair to them, they did notify everybody and it was by post—and that is how I became aware of it. So I suspect that process is already underway in the real world, but I see no reason why we should not mandate it. People have a right to know what is happening to the zoning of their property. However, I do indicate to the government that if there are very good reasons why we should not support this—I have not heard them yet, but if there are—I am open to reconsidering this clause should we recommit it.

The Hon. J.A. DARLEY: I will be supporting the Greens' amendment.

The CHAIR: There are two amendments here. I draw members attention to amendment No. 38, clause 70, page 60. We have 'after line 8' and it should be 'after line 2'.

Amendments carried.

The Hon. K.J. MAHER: I move:

Amendment No 27 [Emp–4]—

Page 60, line 3—Delete 'Minister' and substitute 'Commission'

Amendment No 28 [Emp–4]—

Page 60, line 6—Delete 'Minister' and substitute 'Commission'

Amendment No 29 [Emp–4]—

Page 60, lines 11 and 12—Delete '(except where the designated entity is the Minister)'

I move these amendments for the reasons I outlined when I moved amendment No. 21.

The Hon. D.W. RIDGWAY: The opposition will be supporting this group of amendments.

Amendments carried.

The Hon. K.J. MAHER: I move:

Amendment No 30 [Emp–4]—

Page 60, after line 12—Insert:

(7a) The designated entity must, after furnishing a report to the Minister under subsection (7), ensure that a copy of the report is published on the SA planning portal in accordance with a practice direction that applies for the purposes of this section.

This is an amendment that I think has the agreement of the opposition and reflects the government's discussions with the LGA.

The Hon. D.W. RIDGWAY: I can indicate that from the consultations the shadow minister has had with the government and representatives, we will also be supporting this amendment.

Amendment carried.

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

Amendment No 39 [Parnell–1]—

Page 60, line 15—After 'this section' insert:

(subject to the requirement to charge costs under subsection (4)(b) (if relevant))

I will be guided by others, but I am pretty sure this is just consequential. We have agreed that the person driving the rezoning is going to pay the costs and this just reflects that.

The Hon. K.J. MAHER: Yes, we consider this a consequential amendment and we support it.

Amendment carried.

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

Amendment No 40 [Parnell–1]—

Page 60, after line 30—Insert:

(9a) The Minister must, within 2 business days after taking action under subsection (9), cause to be published on the SA planning portal a copy of any advice furnished to the Minister by the Commission for the purposes of this section.

We need to put this amendment into context: it is clause 39(9) and it is included as a new subclause (9a). It references back to subclause (9) and requires the minister, within two business days after taking action under subclause (9), to publish on the portal a copy of any advice that was furnished to the minister by the commission for the purposes of this section.

Basically, the regime is that we have the minister and we have the commission. For the last several hours we have been recalibrating, I guess, the relationship between the minister and the commission, where we are inserting 'the commission' in a lot more spots and taking out 'the minister', but ultimately the final decision is made on these designated planning instruments. The final decision is made by the minister, and I think that part of the transparency of this process is that any advice that has been furnished to the minister by the commission should be published; we should be able to see that, and it should be in a timely manner, so I have said within two days.

The minister has four main powers: the minister, when confronted with a proposed change to the planning rules, can just adopt it; secondly, the minister can change it and then adopt it as changed; thirdly, it can be split up into different bits; and the minister can approve some and delay or defer or decline others or determine that the matter not proceed at all. That is the range of powers that the minster has.

I think the community is going to be interested in whether the independent planning commission has, in fact, advised a particular course of action and whether or not the minister has actually accepted that advice—the minister is not obliged to; the minister has the final say. So, to make sure that we do get to see this information in a timely manner, this amendment requires it to be published on the portal within two days.

The Hon. K.J. MAHER: I can indicate that the government opposes the amendment. We think it is unnecessary. It creates an extra burden, and the advice of the commission in this respect should remain, in our view, unpublished. We note that we are giving the commission a whole lot of extra ways to insert themselves with previous amendments, but this is one we do not agree with. Secondly, in terms of the specifics of amendment No. 40, we do not agree with the prescribed two business days. If this was to be part of the act, we feel that this is a matter best left for regulations or good administrative practices.

The Hon. D.W. RIDGWAY: I indicate that the opposition will be supporting the amendment proposed by the Hon. Mark Parnell. There is a little bit of concern that maybe two days is too tight and too prescriptive, but nonetheless we are happy to support the Greens' amendment.

The Hon. J.A. DARLEY: I support the Greens' amendment.

The Hon. K.J. MAHER: I have a question for the Hon. Mr Parnell on this matter. Obviously a lot of this information could be released through an FOI, if it were sought. If there is any information

that should properly be kept confidential, do you envisage that there is an avenue to keep that confidential or does absolutely everything, even frank and fearless advice, have to be published? I guess my question is: if matters quite rightly were not able to be disclosed through FOI, would they have to be disclosed through this?

The Hon. M.C. PARNELL: I thank the minister for his excellent question. As a matter of statutory interpretation, we are going to have a number of provisions which have to be read side by side, and there are provisions in relation to confidentiality. As to how they would fit side by side with this, I would have thought that if it became a matter for a court to have to interpret, probably the court might want to test it because, as we know, governments often claim confidentiality to actually hide inconvenient advice when it is not really confidential at all.

I think that the commission, knowing that this provision is now inserted, will provide their advice in a way that protects any particular confidential information if they think that is necessary. They know that every member of the South Australian community is going to see their advice and they are not going to unduly, unreasonably or unnecessarily infringe people's privacy or trade secrets, or anything like that.

My view is that they will probably write their advice accordingly. If they do not, if the government chose to redact the advice when it put it up onto the portal, then if someone thought that it was unreasonable I suppose they could try to challenge it, but the government would have a pretty good case because there are other provisions of the bill that talk about preserving confidentiality. That is the best answer I can give.

The Hon. K.J. MAHER: I thank the honourable member for his answer. I understand the response given, but I think there is some ambiguity about this, and I wonder if we are not absolutely sure of the nature and effect. I know we can come back to it by possibly recommitting it. I have another query on a 'copy of any advice' and the use of the word 'any'.

Is that intended by the honourable member to mean not just the final advice provided, but if there is a question along the way before coming to the final advice—any advice at all whatsoever—of a nature that does not in any way pertain to the final advice furnished by the commission to the minister, does it all have to be put up? If along the way a minister asked a question of a technical nature about how something might work, for example, or something that was completely unrelated to the final advice given, would that all have to go up within two days, no matter how trivial?

The Hon. M.C. PARNELL: I thank the minister. Again, given that he is not the primary portfolio holder, he is on top of this in an amazing way. The reason that I use the words 'copy of any advice' is that there will be many instances where no advice is given. It is not compulsory for the commission to give advice; if the commission has not given advice on something, then there is nothing to publish, but if there is any advice then that should be published.

As to the minister's specific question, the way I would consider it is that if the commission is asking questions then they are not providing advice: they are asking questions. When they give advice, they give advice. Advice is, 'Minister, this is what you should do.' If they do not have enough information on whether to give any advice and what advice to give, I would not have thought that this clause picked up the whole communication trail, every communication from every officer of the commission with the minister's staff. I am not suggesting that that would all be picked up.

As the minister points out, if someone thinks that there is some draft advice that was never actually delivered but was drafted for the purpose of something else, they might try to chase it under FOI, but as the Hon. Rob Lucas said, 'Good luck'. It is not my intention for this clause to deliver anything other than the final advice, if any, provided by the commission to the minister.

The Hon. D.G.E. HOOD: I thank the Hon. Mr Parnell for his clarification. It certainly gives me more comfort, I must say, because I had taken more the view that the government was taking: I was worried about just how wide it would be and what sort of administrative burden it might pose. My other concern about this amendment is the two-day time frame; it is very tight. I have not read it in a few moments, but I do not think it said two business days, did it?

The Hon. M.C. PARNELL: Yes, two business days.

The Hon. D.G.E. HOOD: Business days, yes. It is very tight. I just raise that as a concern. I would have thought seven or 14 is probably more like it.

The Hon. D.W. RIDGWAY: I did raise that concern when we indicated that we would be supporting it. As it is almost lunchtime, I wonder whether the mover is interested in, if we reported progress, maybe over the break coming up with a longer period of seven business days. I think that two days seems awfully short. Seven or 14, there may be a standard the government might be happy with. I do not know, but maybe it is an opportunity to do that now.

The Hon. M.C. PARNELL: Thank you, and I accept what the Hon. Dennis Hood and the Hon. David Ridgway have said. I do not think we need to agonise over this over lunch. I am happy to move the amendment in an amended form, with the leave of the committee, to replace the word 'two' with the word 'five', five business days. They have a week to do it, which I think makes sense. Can I can get some non-verbal indication from the Hon. Dennis Hood; is that more sensible?

The Hon. D.G.E. Hood: It is better.

The Hon. M.C. PARNELL: I will seek leave to move the amendment in that amended form.

The CHAIR: It is good to see common sense prevailing.

The Hon. K.J. MAHER: If we are moving in amended form, I might ask the honourable member to consider changing the word 'any' perhaps to 'final' to clarify absolutely what he was indicating about the advice. One of the concerns is that if a minister is getting ongoing advice, which sometimes has changes or additional information, it would seem a pity that the commission might not give as frank and fearless advice as it might otherwise, particularly if the advice was ongoing. I think that would reflect what the honourable member is intending, to remove the 'any advice' to something like 'final advice'.

The Hon. D.G.E. HOOD: I indicate to the Hon. Mr Parnell that, if he were to do that, we would be inclined to support it as well—so, five days and then some tightening around exactly what sort of advice. I understand it is really the final advice you are interested in.

The Hon. D.W. RIDGWAY: I indicate that that would be an improvement from the opposition's point of view as well. I hear what the minister is saying, and I can see his adviser frantically looking at how we might be able to come up with some compromise that makes a bit of sense. That is why I think, maybe at this point in time, if I move to report progress, then perhaps if that discussion, as to whether it is 'final advice' or whatever the actually wording is, is sorted out we can then look at that when we resume later this afternoon.

Progress reported; committee to sit again.

Sitting suspended from 12:57 to 14:16.

FIREARMS BILL

Assent

His Excellency the Governor assented to the bill.

LOCAL GOVERNMENT (BUILDING UPGRADE AGREEMENTS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

Petitions

MARTINDALE HALL

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 523 residents of South Australia requesting the council to urge the government to:

1. Prevent the sale and redevelopment of Martindale Hall.

2. Call on the Government to honour the intention of the original bequest of the Mortlock family by ensuring that Martindale Hall remains in trust for the people of South Australia.

NATURAL RESOURCES MANAGEMENT ACT 2004

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 15 residents of South Australia concerning captured water in farm land. The petitioners request the council to urge the government to:

1. Remove part B of the interpretation of infrastructure in the Natural Resources Management Act 2004 so it cannot be defined to mean dams or reservoirs.

2. Remover chapter 7, part 2, division 2 of the Natural Resources Management Act which restricts the amount of water a land-owner can use from dams and reservoirs.

3. Ensure that a water levy cannot be imposed on water captured in dams, reservoirs or rain water tanks that started out as rainfall.

DARDANELLES CENOTAPH

The Hon. J.S. LEE: Presented a petition signed by 18 residents of South Australia, concerning the proposed relocation of the Dardanelles Cenotaph to the Kintore Avenue 'Memorial Walk'. The petitioners request the council to urge the government to reject the Government House Precinct Land Dedication Bill and thereby retain the Dardanelles Cenotaph in the South Park Lands.

RAW MILK

The Hon. M.C. PARNELL: Presented a petition signed by 198 residents of South Australia, concerning raw milk. The petitioners request the council to urge the government to disallow the regulations under the Primary Produce (Food Safety Schemes) Act 2004 concerning the dairy industry made on 23 April 2015. They also request that the council will legislate for the regulation of a raw milk industry in South Australia that recognises the right of South Australians to make their own free choices about the food they consume, whilst providing for appropriate public health protection.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

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

Reports, 2014-15—
- Adelaide Festival Corporation
- Carrick Hill Trust
- Country Arts SA
- Dog Fence Board
- Office for the Ageing
- South Australian Film Corporation

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

Water Amendment (Murray-Darling Basin Agreement) Commonwealth Regulations

Ministerial Statement

AGIUS, AUNTIE JOSIE

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:21): I seek leave to make a ministerial statement on the life and contribution of Auntie Josie Agius.

Leave granted.

The Hon. K.J. MAHER: Today, I raise to speak about the life and significant contribution Ms Josie Agius made to the South Australian community. Josie Agius, or Auntie Josie as she was

better known, was born in Wallaroo in 1934; in fact, Monday would have been her 82nd birthday. She grew up in Point Pearce on the Yorke Peninsula. Many South Australians will recognise her from the Welcome to Country ceremonies she performed.

Auntie Josie did so much in life, served her community in so many capacities, accomplished so much and meant so much to so many people from across the entire state that it is hard to know where to begin to pay tribute. It is true to say that Josephine Agius was one of a kind and that she simply cannot be replaced. She was a woman of massive experience, wisdom and energy, and possessed a legendary cheeky wit. She was a deeply proud Aboriginal woman, with strong connections to Narungga, Kaurna, Ngarrindjeri and Ngadjuri peoples. I know that she was proud in particular that she had connections to a culture that was so diverse.

She passionately loved her community, in particular her Port Adelaide community where she lived for much of her life. Many people admired Auntie Josie for her inclusive and peaceful nature. She did a tremendous amount of work towards reconciliation in South Australia, in part because she was highly skilled at bringing people together, both Aboriginal and non-Aboriginal, and South Australians from all cultural backgrounds, and helping them feel comfortable and connected to one another. Make no mistake, she was a fierce and highly committed advocate and activist for Aboriginal people, and she stood up for Aboriginal people and their rights with unyielding determination.

Auntie Josie was one of South Australia's first Aboriginal health workers; in fact, she was at the forefront in those days of influencing specialist Aboriginal health services in this state. Education was another passion of Auntie Josie's. For almost a decade she worked with Aboriginal children from reception to year 7. She broke down barriers, especially for Aboriginal children. They clearly held a special place for her.

In speaking with members of her family, they described her as a major influence on their lives, the lives of those around them and their community. She helped many people find their place and where they fitted in in terms of connection to country and community. Auntie Josie always encouraged those of the next generation to have a voice for what they wanted to do and wanted to achieve, and of course those who knew Auntie Josie spoke of her wit and humour.

She was a giant in the Aboriginal community, but she was also a highly accomplished professional community worker. The impact she made in her working life will continue to be felt for many years. When you look at the long list of things that Auntie Josie did in her 81 years—all the jobs she worked in, appointments she held, the communities and groups she assisted, her achievements and the recognition she received—it is quite hard to believe that it is only one person's life that is being described.

Ensuring that Aboriginal women and children in particular could access high-quality health services was a deeply-held passion for Auntie Josie, and there is no doubt that her commitment inspired many others to follow her example. She was also a pioneering Aboriginal education worker and had a way of connecting with children that was magical. She engaged and delighted students in primary schools around the Port, especially at Taperoo primary school where she worked for many years. While there, she introduced an Aboriginal Culture Week in the school and linked the children with the special NAIDOC Week activities.

Auntie Josie was especially a tremendous champion of language and culture. She was highly influential in promoting and reviving Aboriginal languages. As I have highlighted, she was extremely passionate about insisting that young Aboriginal people maintain an interest in and a knowledge of their culture. A great deal of her remarkable energy was put towards this purpose in many of the roles that she held throughout her life, but I know she would like for part of her legacy to be that young Aboriginal South Australians carry on the work about which she was so passionate, work such as:

- guiding us in taking the many challenging steps that will lead our community towards reconciliation;
- ensuring future generations of Aboriginal people will no longer suffer from needless and debilitating inequalities in areas like health and education; and

- instilling in the hearts and minds of new generations a heartfelt connection to culture, to language, to heritage and to history.

Auntie Josie spent her life leading us towards a strong and positive future that she envisaged for Aboriginal people in South Australia. I believe the best way to honour her contribution and the tremendous impact she made is for us to continue working to advance the causes for which she lived. For me, that will be a great privilege, and I know thousands of people whose lives she touched and who were inspired by her astonishing energy and dedication will feel the same way.

OFFSHORE PATROL VESSELS

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:26): I table a copy of a ministerial statement relating to offshore patrol vessels made in another place by the Minister for Defence Industries.

Members interjecting:

The PRESIDENT: Order!

Question Time

MOUNT GAMBIER PRISON

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I seek leave to make a brief explanation before asking the Minister for Correctional Services—I think that's his title—a question about the Mount Gambier Prison.

Leave granted.

The Hon. D.W. RIDGWAY: In the local newspaper from Mount Gambier, *The Border Watch*, on 4 February, the very hardworking and new member for Mount Gambier—unlike the ones who have preceded him for the last 20 years—Mr Troy Bell, made some comments about the Mount Gambier Prison. In response to those comments, the minister said, and I quote:

> In his response, Mr Malinauskas said it had been no secret South Australia had experienced an increased prison population recently with Mount Gambier Prison currently housing around 460 inmates.
>
> 'However, there are definitely no prisoners sleeping on the floor at Mount Gambier Prison,' he said.

My question to the minister is: does he stand by his statement that there are definitely no prisoners sleeping on the floor?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:28): I thank the honourable member for his question. I also concur that Mr Bell is an advocate of Mount Gambier, does a good job quite well and has, indeed, for a long time had an interest in the Mount Gambier Prison, it being a large employer within his electorate. I am pleased to inform the chamber that I am advised that there are no prisoners sleeping on the floor in the Mount Gambier Prison.

The PRESIDENT: Supplementary.

MOUNT GAMBIER PRISON

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:28): The words were 'there are definitely no prisoners sleeping on the floor'. Will you stand by your statement that there are definitely no prisoners sleeping on the floor?

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: How many people does it take to answer a simple question?

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: The Leader of the Government, order! The honourable minister has just replied to you that his advice is there are no prisoners. He makes it quite clear that his advice is there are no prisoners sleeping on the floor, so your next question was really out of order.

The Hon. D.W. RIDGWAY: Mr President, the question was there was no reference to advice in the statement he made to the paper. 'However, there are definitely no prisoners sleeping on the floor at Mount Gambier Prison.' That is the question I am asking. They want to dodge around and duck and weave; that was the question I asked, Mr President.

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:29): I am more than happy to keep reiterating myself for another 57 minutes if it would please the opposition. I made it very clear that I am advised that there are no prisoners sleeping on the floor in the Mount Gambier Prison. I am not sure that I can be any clearer than that, but as I said I'm more than happy to spend the next 57 minutes reiterating that answer.

DRUG AND ALCOHOL TESTING

The Hon. S.G. WADE (14:30): I seek leave to make a brief explanation before asking the Minister for Police questions on drug testing.

Leave granted.

The Hon. S.G. WADE: Yesterday, the member for Fisher in the other place made the following comment:

> There is conjectural evidence that an overbearing police presence and zero tolerance policies are forcing partygoers to take unnecessary risks, such as overloading on drugs.

My questions are:

1. Does the minister agree with and support the comments made by his colleague in relation to a police presence and zero tolerance policies contributing towards young people taking 'unnecessary risks such as overloading on drugs'?

2. Has the minister consulted with SAPOL, its commissioner and the Police Association to learn their views on the imputation that their presence at events leads young people to undertake risky behaviours and subsequently the tragic events that can occur as a result of such behaviour?

3. Does the minister support a zero tolerance policy towards drugs at musical events and, if not, what level of tolerance does he believe is appropriate?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:31): I thank the honourable member for his question. First and foremost, I absolutely support SAPOL and its endeavours to make sure that we adhere to a zero tolerance policy in respect of drug consumption at music festivals. The tragedies that occurred and have received recent publicity, that occurred as a result of people consuming drugs at music festivals, is in no way, shape or form the fault of SAPOL.

The actions of individuals who consume drugs at music festivals are simply the result of their own behaviour and I do not think it is fair for the honourable member's question to impute that somehow SAPOL should take responsibility for the consumption of drugs. In short, to answer the question, I support all SAPOL's endeavours as they make operational decisions to try to make sure that music festivals are safe and drug free.

BUSINESS GRANTS

The Hon. R.I. LUCAS (14:32): My question is directed to the Leader of the Government. For each grant or loan provided by his department to a business in South Australia, does the minister, after receiving advice from his department, approve that grant or loan?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:32): I thank the honourable member for his question. For many of the grant programs for which I am directly responsible as

minister, yes, I will have final tick-off on those grant programs which come directly under my portfolio responsibilities.

BUSINESS GRANTS

The Hon. R.I. LUCAS (14:32): I have a supplementary question. I appreciate he will need to take this on notice or I assume: what grant or loan schemes to business does the minister have current responsibility for, and what was the level of funding that was available in the financial year 2015-16?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:33): I thank the honourable member for his supplementary question. I do not have the figures for each single grant scheme. I am happy to take that on notice. I suspect most of those were detailed in budget estimates up to the time, but I am happy to update them to reflect the current situation for those particular grants and the amounts.

AUTOMOTIVE SUPPLIER DIVERSIFICATION PROGRAM

The Hon. J.M. GAZZOLA (14:33): My question is to the Minister for Manufacturing and Innovation. Can the minister update the chamber on how the Northern Economic Plan is assisting automotive component suppliers diversify to take advantage of emerging opportunities in the manufacturing sector?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:33): I thank the honourable member for his question and his very strong interest in the automotive sector and cars, and muscle cars in general.

The state government's Automotive Supplier Diversification Fund is an $11.65 million initiative designed to assist automotive supply chain manufacturers impacted by the closures of Ford, Toyota—and particularly Holden which is slated to close at the end of 2017. Through the program eligible South Australian companies are being supported to diversify and secure alternative revenue streams to transform their business.

Members may be aware of some of the significant support provided through this program to a number of supply chain companies. To date there have been some 10 grants to a range of companies committed to a prosperous future after whole automotive manufacturing in Australia comes to an end. Quality Plastics & Tooling received $495,000 for a project to expand their product range into food, cosmetics and other non-auto industries; ZF Lemforder Australia received $450,000 to transition their business to manufacture the air tip vehicle; and Trident Plastics were awarded $500,000 to invest in new tooling to meet demand for a range of plastic components that are currently being imported.

As I outlined yesterday in an answer, in response to a question about supporting supply chain workers, we know that we must change and meet and adapt to the times and the needs of companies as conditions change in the South Australian economy, particularly in the automotive manufacturing sector. That is why, as part of the Northern Economic Plan, I announced a range of amendments to the Automotive Supply Diversification Program that will ensure more companies have greater capacity to access support through the program.

This includes removing the 20 per cent exposure threshold for support, which means that any manufacturing company directly impacted by the Holden, Ford or Toyota closures is now eligible for funding support. We have also removed the $500,000 cap on available assistance, to better support those automotive component suppliers that have proven diversification strategies in place. The changes will also allow non-automotive companies to access funds to partner with automotive supply chain companies on projects that retain automotive supply chain jobs and keep capital equipment in use.

As I said, we understand that the circumstances for many companies are changing as the closure of Holden draws nearer, and we recognise that to support the transformation of the state's

economy we need to make our programs as flexible as possible to make sure that they fit the circumstances. Indeed, members may have heard today that my good friend the Minister for Investment and Trade—

The Hon. D.W. Ridgway interjecting:

The Hon. K.J. MAHER: —he's a very good egg and a great advocate for this state—talking this morning about one of the early successes of the Investment Attraction Agency.

The Hon. D.W. Ridgway interjecting:

The Hon. K.J. MAHER: We hear interjections from what many people describe as the next Liberal candidate for Waite, if he's got the guts to challenge it and actually run in that seat.

The Hon. D.W. Ridgway: I could do it with both hands tied behind my back.

The Hon. K.J. MAHER: I think the Leader of the Opposition in this council has just declared that he is no longer a candidate for Liberal Party preselection for the Legislative Council because he has put himself forward in Waite, which many of his colleagues will be very pleased with because there is a vicious fight going on at the moment with some of the members opposite.

My good friend, that good egg and great advocate, minister Martin Hamilton-Smith, the member for Waite, talked this morning about one of the early successes of the Investment Attraction Agency. ScreenAway is partnering with automotive supply chain company Adelaide Tooling to manufacture a unique retractable flyscreen and blind system. I understand the partnership means that 100 per cent of the fabrication will now be done locally. I am told that all of the products used to construct the screens are sourced from Australian companies.

It is expected that around 300 jobs will be created over the next two years and about 30 workers from Adelaide Tooling will again be transitioning from the company's automotive business to ScreenAway, with another 70 workers to be employed to work on the product over the next couple of years. A further 200 jobs are expected to be created during this period, either internally at ScreenAway or through other suppliers. This is a great example of what governments and industry can achieve when they work together using innovation as a means of transformation.

AUTOMOTIVE SUPPLIER DIVERSIFICATION PROGRAM

The Hon. A.L. McLACHLAN (14:38): Supplementary, minister—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr McLachlan has the floor.

The Hon. A.L. McLACHLAN: It is an important question. Minister, what are the conditions that the department has placed on those companies that have received the grants? For example, if they don't complete the project, do they have to return the moneys?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:38): It's a fantastic question from the Hon. Andrew McLachlan, who always asks very, very difficult, incisive questions, using his tricky lawyer-like ways. In relation to—

Members interjecting:

The Hon. K.J. MAHER: Everyone is interjecting. Everyone is scared of the Hon. Andrew McLachlan. He shows true leadership qualities. They don't want me to answer because they are worried about him.

The PRESIDENT: Answer the question.

The Hon. K.J. MAHER: However, as a general rule, if the conditions on which grants are given are not met, there are conditions for the return of funds. In relation to specific grants under the Automotive Supplier Diversification Program, I am happy to bring back an answer on the grants that have been given out so that the honourable member can be further informed. I thank him for his question and his family. Again, he is a very, very good member.

The PRESIDENT: Further supplementary. You are lapping up all the praise.

AUTOMOTIVE SUPPLIER DIVERSIFICATION PROGRAM

The Hon. A.L. McLACHLAN (14:39): Can the minister clarify whether it his ministerial staff who are monitoring the progress of the projects or some other department.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:40): Ministerial staff?

The Hon. A.L. McLACHLAN: Your ministerial staff. Which department is monitoring the progress of the projects?

The Hon. K.J. MAHER: Officers with great experience from the Department of State Development monitor the grants programs.

WORKCOVER

The Hon. R.L. BROKENSHIRE (14:40): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question regarding input from the minister in an NRM debate about WorkCover.

Leave granted.

The Hon. R.L. BROKENSHIRE: In a recent interview on radio FIVEaa, discussing the mismanagement of the NRM levy, between the minister and myself, the minister claimed that the Labor Party was the saviour of businesses in South Australia because it had given them the biggest tax cut that they would ever see from his government, delivered through changes to WorkCover legislation. In the explanation, I put forward that the cost of WorkCover would not have got out of control if the Labor government had managed it properly.

South Australia is the highest taxed state in Australia, and it is a sad indictment on the minister's government if the best he can do to improve taxation is to cut entitlements to injured workers. This wonderful tax cut, as the minister described it, is hardly attracting business to the state or creating jobs. South Australia has the highest unemployment rate (7.2 per cent) in the country, and we can almost hear the doors slam shut behind businesses as, sadly, they are exiting in droves. I won't go through the list, but there is a comprehensive list here that adds up to tens of thousands of jobs that have been lost. Therefore, my questions are:

1. Does the minister agree that his government mismanaged WorkCover for the past 14 to 15 years to get it into the state that it was in the last year?

2. Are the minister and his government prepared to watch his party sell off workers' rights and still claim that his government is the ultimate example of good governance?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:42): I thank the honourable member for his question, although it is sad for me to see a member of such standing in this place and such huge experience—a former minister himself in a failed Liberal government—asking questions of a minister relating to portfolios that he is not responsible for. But, there you are, he has done it.

Let me just rub salt into his wounds because every time he goes on the radio—every time—he misleads our community. He uses the wrong information, he doesn't give people facts and he refuses to give credit where it is due to a government that has removed the Save the River Murray levy, a levy of $40 per household and $182 per business. This government removed that levy.

He fails to give any credit to a government that has driven down the cost of the provision of water services to the community—a 6.4 per cent reduction in water bills in 2013-14 and, with their current draft determination, a further 3 per cent reduction which, added up over every single year, adds up to $90 million taken out of the revenue from SA Water. Every year, compared to 2012, a $90 million reduction should this draft determination be supported through the consultation process. The honourable member never ever mentions that—never ever mentions it. He doesn't mention the reduction—

The Hon. R.L. Brokenshire interjecting:

The PRESIDENT: The Hon. Mr Brokenshire, being a former minister, you know the importance of being able to give an answer to an important question without interference. I can't hear the answer; all I can hear is you in the background. Please allow him to give the answer. The minister.

The Hon. I.K. HUNTER: Another problem he has with memory is that it is this government that is reducing business transaction costs over the next forward estimates. He doesn't give us any credit for that. We are the only government in Australia that has reduced these business transaction costs. He doesn't give us any credit for that. This is the government in this country that is driving down costs to business. We are encouraging businesses in this state to profit, to employ more people and to grow their enterprises.

Who does he support instead? Does he support Malcolm Turnbull, whose only message to the states is, 'Drive up payroll taxes, drive up property taxes,' to fill the $80 billion cuts to health and education? His Liberal government has imposed, across all the states over the forward estimates, $80 billion worth of cuts to the states and the federal Liberal Prime Minister's answer to us, as states, is, 'Put up your own payroll taxes, put up your own property taxes to cover the debt the commonwealth has withdrawn from.' The Hon. Mr Brokenshire does not have a leg to stand on when it comes to any credibility in terms of taxation.

LEIGH CREEK

The Hon. T.J. STEPHENS (14:45): My questions are to the Minister for Employment. Minister, what is the status of Leigh Creek township, what is happening with infrastructure in Leigh Creek, and what does the minister see as the future for Leigh Creek?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:45): I thank the honourable member for his question and his always keen interest in regional affairs matters in South Australia. The government has been consulting with the Leigh Creek community, and the Upper Spencer Gulf and outback areas more generally, about what the future will hold for that area. There was a request for information process that I understand has closed, and all the ideas that have been put forward—particularly for the future of Leigh Creek—will be assessed.

I can let the honourable member know that the ideas have included further tourism opportunities, and there are obvious tourism opportunities in that part of the Flinders Ranges. We see places like the Prairie Hotel at Parachilna, and there is the caravan park and obviously the hotel complex in Leigh Creek that could lend themselves to those sorts of opportunities. From time to time there has been a film industry in and around that area, with companies using it for sets. The airport is a fantastic facility just outside Leigh Creek, one of the biggest airports of its type in Australia, and people have suggested future uses for that.

A number of companies have also expressed interest in the coal resource that is still at Leigh Creek. Although Alinta found it was not viable to continue its operations mining the coal and using it to generate power at the Northern Power Station at Port Augusta, there are other companies that have expressed some interest, and we will support their endeavours and see if anything comes of that. I will inform the honourable member once the government has finished that request for information process.

In terms of the township itself, there are some significant assets in that town. I have talked about the hotel complex, and there is also the sporting club and recreational facilities, the swimming pool, the tennis courts. It is a very well-planned town which has, for many years, supported a thriving community. I know that in the next few weeks many members of cabinet will be up in that area and will be visiting Leigh Creek to hear firsthand from some of the locals.

Certainly the area is a major service hub. It supports towns like Copley, Nepabunna and Lyndhurst as well as pastoral areas further north, as many people have already told us and we will keep that in mind when we look at the very long-term future of Leigh Creek. However, the government has committed to keeping those essential government services, the school and the police services that are there, at least up until mid-2018, and Alinta has a responsibility to keep their services ongoing

while we continue to work with residents and people who want to stay there and people who want to see if there are business opportunities there beyond that time.

LEIGH CREEK

The Hon. T.J. STEPHENS (14:48): A supplementary question: regarding company maintained infrastructure, is the minister confident that infrastructure will not be lost in that community so that the community does have a chance to succeed?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:48): It is the responsibility of Alinta to maintain the vast majority of infrastructure at Leigh Creek until the lease is surrendered. Alinta gave notice of the surrender of the lease in, I think, June or July last year and it is a three-year period from the giving of notice until that lease is surrendered. So Alinta has the responsibility of maintaining the vast majority of the infrastructure—it is essentially a company-run town—up until that time.

Certainly we will be using that time to look at how that is transitioned. The Outback Communities Authority is one organisation that we have been talking to and that has been helping us. That is a possibility in terms of what the future of Leigh Creek and its infrastructure might look like and how it might be managed in the future.

LEIGH CREEK

The Hon. T.J. STEPHENS (14:49): A further supplementary question: what about the millions of dollars' worth of infrastructure actually on the mine site that could be quite valuable for a new industry that the company was talking about bulldozing? That would be a tragic loss.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:49): I thank the member for the further supplementary. There are some sheds and some admin buildings near the mine site at Leigh Creek. There is also the retention dam and other workshops, and we are in discussions with the company about the future of those because there are some things that might be easier for the company not to bulldoze and get rid of. We are keen to see how they could be used if there is a possible project that would keep using the site, particularly the coal or other resources at the mine site.

LEIGH CREEK

The Hon. J.S.L. DAWKINS (14:50): A supplementary: will the minister indicate what considerations are being made about the resource that is contained within the reservoir adjacent to the town of Leigh Creek?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:50): Do you mean the retention dam to the south of the mine or the Aroona Dam?

The Hon. J.S.L. Dawkins: No, I mean the reservoir that feeds the—

The Hon. K.J. MAHER: The Aroona Dam that supplies the water supply to the town?

The Hon. J.S.L. Dawkins: Yes.

The Hon. K.J. MAHER: That is part of the infrastructure audit that is ongoing. The Aroona Dam that supplies the water supply to the town is a resource for that area and that is part of the infrastructure audit that is ongoing, as is the retention dam that stops water flowing into the mine pit at the moment. I know that in years gone by, at that retention dam just to the south of the mine itself, there has been a sailing club set up on the banks of that retention dam. Both that retention dam and the Aroona Dam which supplies the water supply to the town are being looked at.

MURRAY-DARLING BASIN

The Hon. G.E. GAGO (14:51): My question is to the Minister for Water and the River Murray. Will the minister inform the chamber about the $93 million State Priority Projects funding and how this vital funding will help secure the long-term health of the River Murray?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:51): I thank the honourable member for her most important question. I think everyone in this place is quite aware that the South Australian government has fought for the sustainability of the River Murray, and it is key to ensuring the continued prosperity of its community and irrigators that we do fight even now because the plan has not been delivered yet in full. We are still a few years away from that. As we know, there is some rear-guard activity happening in the eastern states to try to dilute some aspects of the plan.

We fought hard for the River Murray and we fought hard based on the best available science that we could bring to the argument—not politics, not parochial interests, but science was our battleground. Of course, we insisted on a Rolls Royce deal for South Australians and not the clapped-out Mazda that the Liberals were asking us to accept. There seems to be habitually in the Liberal Party this inability to stand up to the federal government, even when it was a Labor government. They refused to stand up to the government and fight for South Australia's interests. They were begging us to accept the third best option, the clapped-out Mazda, but our Premier said that would not do for South Australians, we want the absolute best deal we can possibly manage, and we achieved it.

We recognise that our most important natural resource is the future health of the Murray-Darling Basin. It is vital for our state's future. It supplies water to our cities and towns, our businesses, our irrigators and to industry. It is an essential part of safeguarding our irrigated agriculture sector, worth about $1.4 billion annually, as well as our world-renowned food and wine producers for generations to come. As a result of that fight, we secured a Murray-Darling Basin Plan better than what was on offer from the federal government and a plan that will secure the long-term health of the basin with commitments for a total return of 3,200 gigalitres to the river. We secured $444 million of funding for our irrigators, River Murray communities and environmental works.

It is absolutely critical that this investment continues whilst we are delivering the Murray-Darling Basin Plan in full and on time and to ensure the sustainability of the River Murray irrigators and communities into the future. In September 2015, I secured an agreement with the former parliamentary secretary Mr Bob Baldwin to progress the delivery of the $93 million under the Private Irrigation Infrastructure Program for South Australia. This program funds improving infrastructure efficiency improvements for Murray-Darling Basin operators in South Australia with a share of the water savings achieved from these projects to be used for environmental water purposes.

The agreement that I secured last September has immediately unlocked up to $2.7 million of commonwealth funds which we have matched with $300,000 of state funding, and this will be used to develop proposals—

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: Well, it is a pretty good deal that we have achieved because we stood up and fought for it, Mr Ridgway. Unlike you, who would have secured for South Australia the third or fourth worst option that was on the table, we drove a very hard bargain.

The Hon. K.J. Maher: They drove a Mazda.

The Hon. I.K. HUNTER: They drove the Mazda into the wall. There is no doubt our irrigators are already amongst the most efficient in the nation, but with the right assistance we can achieve even greater efficiencies, and the projects being developed will see us continue to modernise our irrigation sector, through infrastructure and a new licensing system, to support the rapidly expanding water market.

In addition, we are exploring an Eastern Mount Lofty Ranges project designed to return flows to the environment in dry times to help protect nationally-listed wetlands and species. By incorporating low-flow bypasses we will increase the amount of water that can be sustainably used, ensuring the continued productive capacity of the region. The $2.7 million for the development of South Australia's project proposals has been allocated this financial year and all proposals put forward by South Australia will be subject to commonwealth due diligence prior to being approved for funding.

As I mentioned before, I secured this agreement with the previous parliamentary secretary in September, and as you may recall that was quite a turbulent month for the federal Liberal government. As a courtesy to the new administration, I decided to give them enough time to adjust to the new circumstances, allocate ministries, and finalise their plans for the water and River Murray portfolios before I made the successful negotiations outcome known to the public. But we continued to work with the federal government and over the past weeks my office has been liaising with Senator Ruston and her staff to work out the logistics of this announcement.

It beggars belief, therefore, that the state water opposition spokesperson put out a release on 3 February this year lamenting a lack of activity in accessing the PIIP-SA funding. Surely, one would think that the state Liberal Party would check with their federal counterparts before making such an erroneous statement. This serves to highlight the member for Chaffey's lack of knowledge about issues crucial to his electorate and his shadow portfolio. It also highlights once again the state Liberal Party's willingness to score cheap political points based on inaccurate claims that result in uncertainty and confusion within the community.

Members interjecting:

The PRESIDENT: Order! The minister has the floor.

The Hon. I.K. HUNTER: The recent statement from the opposition water spokesperson is doing a great disservice to his own party and, more alarmingly, to his constituents by pushing misinformation into the public domain.

If he had the basic wherewithal to discuss this with his federal counterparts he would have a clear understanding of the status of negotiations for the expenditure of the funding. It speaks of either incompetence in the state opposition or a lack of a relationship with their federal counterparts or perhaps both. It goes without saying that our irrigators and food producers need and deserve better than this from their representative.

This year will be an important period for the health of the river. The basin jurisdictions will be coming together to agree on projects under the Sustainable Diversion Limit Adjustment Mechanism that address constraints and that achieve the additional 450 gigalitres Premier Jay Weatherill won for the river through his hard negotiations on the plan.

The time is well overdue for the opposition to stop politicising this important issue and to get on board with us and stand up for our state—something they just seem incapable of doing—even if it is against a federal Labor government, as I said.

They need to work constructively with the state government. They need to work constructively for their constituents, for our irrigators and our river communities to ensure South Australia's interests are protected and the future health of our river is secure.

As always, my door is always open to the member for Chaffey for his education and, indeed, any member of the opposition to discuss how we, as South Australians, can work together to ensure the protection of the River Murray and its communities into the future.

MURRAY-DARLING BASIN

The Hon. R.L. BROKENSHIRE (14:58): Supplementary based on the minister's answer.

The PRESIDENT: Supplementary, Hon. Mr Brokenshire.

The Hon. R.L. BROKENSHIRE: Supplementary regarding his comments on low-flow bypasses: will the minister rule out making low-flow bypasses compulsory?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:58): I have nothing further to add to my answer than I already have given. The Hon. Mr Brokenshire might want to inquire of us about the projects we have initiated on low-flow bypasses. I believe I spoke on that issue in this place last year regarding a very interesting project of design which we went to the Interweb for. We had entries from around the world, I understand, and they were fascinating. I think we launched those successful project designs in Mount Barker, I believe, late last year. If he cares to consult *Hansard* he will find his own answers to that.

MURRAY-DARLING BASIN

The Hon. R.I. LUCAS (14:59): Supplementary question arising out of the minister's original answer: why did the minister make a deliberately false statement when he claimed to have met with parliamentary secretary Baldwin in November of that particular year that he quoted when Mr Baldwin did not hold that position in November?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:59): Again, what we see here is the Hon. Mr Lucas paraphrasing and making things up and putting words into minister's mouths and they are never words that the minister ever utters. They are words the Hon. Mr Lucas makes up in his own head. I submitted the package of proposals I think to the minister in June. I met with the minister frequently—

Members interjecting:

The Hon. I.K. HUNTER: I submitted the package of proposals to the federal government and the minister in June. Here we have the Hon. Mr Lucas not even understanding the process. You submit a package of proposals and then you negotiate on them, and then you secure a deal. I am very happy to stand by the fact that I have secured this deal with the federal government to release these funds to do the business case, and we will do those business cases and seek the approval of the federal government to release the extra amount of $90 million to drive those packages to drive further efficiencies for our water communities.

The Liberals in this state invariably are unable to stand up for South Australians. Why is that? What is it that makes them run up the white flag at every opportunity when the federal government attacks South Australia? It is up to us on this side to stand up for this state, wherever South Australians live, and we will always stand up for our river communities.

Parliamentary Procedure

VISITORS

The PRESIDENT: I acknowledge the presence in the gallery of a former legislative councillor and president, the Hon. Mr Bob Sneath.

Question Time

S. KIDMAN & CO.

The Hon. M.C. PARNELL (15:01): I seek leave to make a brief explanation before asking a question of the Minister for Sustainability, Environment and Conservation regarding the S. Kidman & Co. landholdings.

Leave granted.

The Hon. M.C. PARNELL: The family-owned S. Kidman & Co. is Australia's largest private landholder, with properties covering 101,411 square kilometres in Western Australia, South Australia, the Northern Territory and Queensland, which equates to approximately 1.3 per cent of Australia's total land area and 2.5 per cent of Australia's agricultural land. S. Kidman & Co. owns 17 pastoral leases and two freehold grazing properties, mainly in central Australia. The leasehold and freehold properties are currently for sale.

Over 80 per cent of the Kidman portfolio comprises pastoral leases situated in the arid desert rangelands of the Lake Eyre Basin of northern South Australia, and the channel country of south-

west Queensland, including Anna Creek, Innamincka, Macumba, Durham Downs, Naryilco, Durrie, Morney Plains and Glengyle stations. In 1995 the CSIRO Division of Wildlife and Ecology was commissioned by the commonwealth's World Heritage Unit to investigate and report on the natural heritage values of the Lake Eyre Basin in South Australia. To quote the report:

> Our assessment suggests that the significant natural heritage values of certain surface aquatic systems of the South Australian section of the Lake Eyre Basin are of World Heritage value. These systems are the Cooper and Warburton Creek drainages, Coongie Lakes, Goyder Lagoon, and Lake Eyre North and South.

The World Heritage Unit took the view that the South Australian section of the Lake Eyre Basin contains natural values of international significance, and a nomination to the World Heritage Committee would probably be successful. My questions of the minister are:

1. Given the significant impact of cattle grazing activities on these internationally significant lands, would the government consider working alongside the commonwealth and Queensland governments to acquire the pastoral leases over the tracts of land contained within the southern portion of the Lake Eyre Basin and the lower channel country of northern South Australia and south-west Queensland in order to convert this land into an iconic national park?

2. Has the government considered nominating this land for national heritage listing? I note that the current round for 2016-17 closes on 18 February this year.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:03): I thank the honourable member for his most important question and his very detailed explanation in advance of that question. A novel idea: I wonder whether the honourable member knows how much it would cost the commonwealth and the states of Queensland and South Australia to acquire those wideranging properties that encompass so much of this country. If he has that figure in his head, he might like to let us know so that we can take it to our respective treasurers and see what sort of an answer we might get. I can imagine myself what that might be.

Of course, this government has been very active in protecting the environments around the Lake Eyre Basin, not just on the South Australian side but also as it crosses the borders. That is why we took up the fight against the former Liberal National Party government in Queensland, which decided that it would try to unwrap, I suppose, the water licences that have existed up there for a long time.

In a very brief dissertation on that, it's very, very flat channel country. There are no places to store water. When it rains, it rains, and you use the water that's there, but most of it floods down through the channel system and eventually, if there is sufficient water, down to Lake Eyre.

The former Queensland Liberal and National Party government thought it was a brilliant idea to try to break up some of those sleeper licences and issue them further upstream so that they could be utilised by more players and therefore deprive the ephemeral water system of water that it desperately needs to get through those dry years and wait for those very particular heavy rain years. Luckily for all of us, that government was defeated and there is a Labor government in Queensland now who are rewriting that legislation as we speak, I have been advised. That is an issue that we have been working on with the Queensland government now and the commonwealth for some time.

In terms of national heritage listing, this is another bit of a bugbear with us, and not just with us but with other states as well. When talking to the commonwealth, they seem to take a view that they will only entertain one national heritage listing at a time, particularly those that need to be thought of for world heritage listing. We have already put in a bid, if you like, for the commonwealth to consider the Arkaroola area as an area that should be considered for world heritage listing, and the first step of course is the commonwealth government nominating that for national heritage.

We are competing with other states, and so I am not sure that it's in our interest to put an ambit bid of several. I think we best are as a state to focus on our strongest bid possible, and that's been the tactic that we have utilised so far. We are competing with bids from other states and, as I said, there seems to be some degree of reluctance at a national level to deal with more than one bid at a time.

MICRO FINANCE FUND

The Hon. A.L. McLACHLAN (15:06): 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: The guidelines for the South Australian Micro Finance Fund state that the Department of State Development reserves the right not to fund an application to the full amount requested, regardless of whether an applicant fulfils the eligibility criteria and addresses all assessment criteria. The guidelines also state that the department reserves the right not to award any grants and that the decisions made by the department are final.

Can the minister advise the chamber that when refusing to grant an application, either in whole or in part, whether the department provides written reasons for its decision and outlines the basis for any such refusal to unsuccessful applicants?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:07): I thank the honourable and very, very good member, the Hon. Andrew McLachlan, for his question. I am sure he is not just merely making grief but is genuinely interested in the Micro Finance Fund, and I appreciate that he is showing me the love again and asking me questions once more.

The Hon. D.W. Ridgway interjecting:

The Hon. K.J. MAHER: We continue to get interjections from the putative Liberal candidate for Waite. My advice for when the Leader of the Opposition is the candidate for Waite is: don't go out in your first week and talk about shopping in the poor end of town. That would be a very bad start to your candidacy.

In relation to the South Australian Micro Finance Fund, as the honourable member knows because he has asked many questions about it, it's a competitive, merit-based program aimed at helping businesses translate good ideas and their business models into new, high-value businesses. There has been $1.7 million allocated over three years to the South Australian Micro Finance Fund, and it's a matching grant application: for every dollar the applicant raises, he or she can receive up to $2 from the Micro Finance Fund up to a maximum of $50,000.

The aim is to help those businesses who wish to take a new idea through to production and sales, with the aim of adding value to their business and generating growth and possible export revenue. It is targeted at businesses with an annual turnover of $500,000 or less. The Micro Finance Fund was launched in March 2015, and so far there have been 46 applications with funding awarded to 10 recipients. I have informed the house previously of some of the recipients who have received funding

However, last week, I visited one of the recent recipients of funding, ODD Games out at Hendon, who are a world leader in monster truck racing applications. They have an app, Monster Truck Destruction, which I believe was No. 1 in its genre of racing applications for quite some time. They are developing the next generations and various platforms for console boxes and PCs for this game. It is a real success story in South Australia. It has gone from three people working at the back of their house to now having offices and employing other designers and graphic artists.

In relation to the question, 'Are formal reasons given?' I will double-check, but I am pretty certain that there is not a list of formal reasons given as to why someone is not successful. However, I am sure that the department does in this grant scheme, as they do in others, provide some feedback if requested. I will double-check on that and bring back an answer for the honourable member.

MICRO FINANCE FUND

The Hon. A.L. McLACHLAN (15:10): Supplementary: can the minister advise the chamber how many applications for grants have been refused?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:10): There have been 46 applications and funding has been awarded to 10 recipients; 46 take 10 is, by my calculations, 36 that have not been awarded. If I have got 46 take 10 wrong, I will check that and bring back an answer.

POLICE CADET GRADUATION

The Hon. G.A. KANDELAARS (15:10): My question is to the Minister for Police. Can the minister tell members about the recent police cadet graduation ceremony that he attended?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:11): I thank the honourable member for his question. It was an enormous privilege that recently, on 20 January, I was able to attend the graduation of 25 police cadets at the Labor-built facility at Fort Largs.

The group that I had the great pleasure of being present at the induction of consisted of nine female graduates and 16 male graduates. It was an absolute privilege to be there along with the police commissioner at this important event. Meeting so many of the new graduates and their families after the ceremony was a wonderful experience and reinforced to me the clear call to service that so many of those young men and women felt and saw policing as an opportunity to be able fulfil that mission.

This is particularly the case for four police officers who, I am advised, have family members who have served or currently serve with the South Australian police force. In addition to those four with a family history in SAPOL, many new officers came with a different experience and, indeed, a great range of different experiences from a range of different professions. I understand the youngest who came into that class from the academy had a particularly unique experience while two older ones had the experience of being in the Australian Defence Force.

The graduating class commenced training on 22 January 2015 and underwent 52 weeks of training to now be prepared for the commencement of their operational service. I had the enormous privilege to be able to present an award to one particular officer who had excelled in the area of communications—a gentleman by the name of Greg. Only a couple of days ago, while walking through Rundle Mall I bumped into Greg and I asked him how he was enjoying his first month of service so far. He is as keen as ever to be able to take the learnings of his 52-week course and serve our community accordingly.

Those officers who graduated earlier this year now leave the academy—which, as I mentioned, is an outstanding purpose-built facility delivered by this Labor government—for their posting throughout the state. I am advised that, indeed, throughout the state they will go, with a significant number of new officers having been posted to the Eyre and Western Local Service Area. I know the Hon. Terry Stephens takes a particular interest in Whyalla, and I am sure it will be of great interest to him that a number of the officers will be serving in that area.

I would like to take this opportunity to place on the public record my personal appreciation to those men and women for the oath of service that they have taken, and I wish them all the very best in their careers, promoting community safety throughout the state of South Australia.

POLICE CADET GRADUATION

The Hon. R.L. BROKENSHIRE (15:14): I have a relevant supplementary question. Can the minister advise what number over and above the 25 who graduated on 20 January are anticipated to graduate for the remainder of this year through the Police Academy?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:14): I thank the honourable member for his question. I will take it on notice as I do not have that specific information at hand. However, I am advised by SAPOL that training down at Fort Largs is an ongoing exercise. There is rarely not a training course being undertaken within their ongoing program at the moment, but I am more than happy to establish what the specific statistic is as to the number who are undertaking training at the moment.

TAFE SA

The Hon. J.A. DARLEY (15:14): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question with regard to TAFE courses for conveyancers.

Leave granted.

The Hon. J.A. DARLEY: I was recently contacted by a constituent who advised me that conveyancing courses through TAFE SA have lost or had their funding reduced by the state government. I am advised that it will now cost about three times more to do the course here in South Australia than it would in Victoria. Given the government's policy for a stamp duty concession for off-the-plan apartments, together with increased activity in real estate generally, which may increase the demand for conveyancers, can the minister advise why the funding has been cut to this course?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:15): I thank the honourable member for his most important question. I undertake to take that question to the Minister for Employment, Higher Education and Skills in the other place and seek a response on his behalf.

Members interjecting:

The PRESIDENT: Do you want to continue on with question time or do you want to go out in the foyer and have a chat? The Hon. Ms Lee.

SOUTH AUSTRALIA POLICE

The Hon. J.S. LEE (15:16): I seek leave to make a brief explanation before asking the new Minister for Police a question about South Australian police.

Leave granted.

The Hon. J.S. LEE: It was great to hear the minister speak about the ceremony earlier. I would just like to mention that the report on government services released on 29 January revealed that there were 45 fewer sworn police officers in 2014-15 compared to 2013-14. These figures reaffirm that the Weatherill government will not come anywhere near meeting its 'recruit 300' police election promise, which requires the government to increase police numbers to more than 4,700 by 2018.

The same report has also revealed that South Australia's prison population has increased by almost 10 per cent in 12 months, with the rate of prisoner-on-prisoner serious assaults increasing by 125 per cent and prisoner-on-officer assaults increasing by 88 per cent. My questions are:

1. Can the minister advise how the government intends to reach its election promise of recruiting 300 police, considering police numbers declined last financial year?

2. With assaults in South Australian prisons increasing, how will the minister reduce these statistics and enforce stronger safety policies in our prisons to protect our officers and prisoners?

3. With the prison population increasing by 10 per cent, how does the new minister intend to enforce stronger law and order policies?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:17): I thank the honourable member for her question. I will deal with each of the questions in the order that you asked them, the first question being about the government's police recruiting targets. I am very pleased to inform members that it is very much this government's intention to honour its 'recruit 313' target as outlined a number of years ago by this government. I think our track record speaks for itself when it comes to ensuring community safety and ensuring that we have a good number of police officers on the ground out in the front line protecting our community.

The honourable member referred to the report on government services released quite recently. I draw the honourable member's attention to a key statistic, which I think speaks volumes

about this government's commitment to ensuring that there are large numbers of operational police on the ground, and that is the statistic that says that this state, more than any other state in the country, has the highest representation of the number of serving police officers per capita, at a figure of 312 serving police officers per 100,000 people in the state of South Australia.

So having the highest number of sworn police officers, operational police officers, of any state in the country I think is an outstanding record and one that we are incredibly proud of. Furthermore, it is a record that I think will stand this government in good stead in honouring its 'recruit 313 target', which I am advised by SAPOL is on track.

Your second question goes to assaults in prisons and very much relates to your third question on the increase in the prison population. The honourable member is right to point out that the prison population in South Australia grew by 9.6 per cent in the last financial year, which does represent a high level of growth in comparison to other states. It is my view that that very much reflects this government's proud record of being tough on law and order. This is a government that stands by its record and its efforts to ensure community safety, and having a tough on law and order stance, which has contributed to an increase in prison population.

The challenge for the government, of course, is what we do when those people are in prison. I have already enunciated publicly that it is very much my view and very much the view of this government that we need to be doing everything we can to ensure that prisoners are rehabilitated while they are in our custody so, once released, they can make a positive contribution to society.

It is not surprising though that, as a result of a 9.6 per cent increase in the prison population last year, the number of assaults that would have occurred amongst prisoners would also go up. If you increase the prison population by 9.6 per cent, it should not come as a surprise that other statistics go up accordingly. That said, that is in no way us resting on our laurels or having a degree of complacency when it comes to the safety of those people who are within our custody and, of course, more importantly or just as importantly, those people who work for the state in ensuring that those people remain within custody, in the form of corrections officers.

The challenge within Corrections is very large. I have not sought in any way to shy away from the challenge that we have within Correctional Services. We do have an increasing prison population, and we do that within the confines of a difficult fiscal environment, but it is a challenge that this government is keen to meet head on. We do have a number of quick builds coming online throughout the course of this year. Indeed, the facility down at Mount Gambier is expanding its capacity, and that is coming online only tomorrow.

This government's commitment to law and order is unwavering, and very much part of that is our commitment to ensuring that there are a large number of police officers serving our community on the front line, hence this state having the position of having the most operational police officers per capita of any state within our country.

SOUTH AUSTRALIA POLICE

The Hon. R.L. BROKENSHIRE (15:21): Supplementary to the minister's question: can the minister advise whether the increase in prison officers has been at the relevant ratio to the increase in prisoners?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:22): I would like to thank the honourable member for his question. Economies of scale inevitably results in more efficiencies in terms of numbers of staff. I am more than happy to take that particular question on notice and provide the honourable member with some accurate data as to the precise number of staff that we currently have within the department.

NATIONAL APOLOGY ANNIVERSARY BREAKFAST

The Hon. T.T. NGO (15:22): My question is to the Minister for Aboriginal Affairs and Reconciliation. Can the minister tell the council about tomorrow's National Apology Anniversary Breakfast? I know many members here on the Aboriginal Lands Parliamentary Standing Committee will also be attending, so could he tell the chamber about the breakfast tomorrow.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:23): I thank the honourable member and the Chair of the Aboriginal Lands Parliamentary Standing Committee for his important question and his strong interest in this matter.

As the member outlined, tomorrow I and, I suspect, many members of this chamber and the other place will be attending the apology breakfast. I will be very proud to attend it for the second time in my capacity as the Minister for Aboriginal Affairs and Reconciliation in South Australia. Tomorrow morning at the breakfast, Archie Roach is the key speaker. Many people who are attending and, I am sure, many members in this place will be excited to hear Archie both speak and perform.

Each year we stop and mark the anniversary of the apology to Australia's stolen generation. It is important to the Aboriginal community, to our whole community and to me personally that we gather each year to mark this important anniversary. It is important for a lot of reasons. One reason in particular that I want to highlight today, and for me perhaps the most striking reason that it is important is that, no matter how far we believe we have come as a nation or as a community, in 2016 there are still people, even prominent people in the media and the community, who deny the historic reality of what happened.

They deny that successive governments of this nation forcibly removed children from their families and communities and placed them in institutions that led to lives of deprivation and hardship. It is denied by many that thousands of children were denied the right to grow up in an environment of love and belonging and to have their legacies of history and culture recognised and understood.

There is no denying the truth, and that is why we are committed to the Stolen Generations Reparation Scheme that was announced last year. It is an acknowledgement that a person's place in this world is fundamental to who they are and how they see themselves. As I said in the chamber last year, for members of the oldest living culture on the planet it is possible to place yourself in a context that stretches back for many thousands of years, but there are many, many Aboriginal Australians who know little of where they come from because governments denied them the opportunity to know.

Forced removal of Aboriginal children from their families, which occurred for many decades of our history in every state and territory, broke apart thousands of important legacies of history and culture. We acknowledge that. We have apologised as a state parliament and, eight years ago, the federal parliament apologised. That is fundamentally important, but so are the next steps of what saying sorry means.

That is why this year we will commence a scheme that will allow for members of South Australia's stolen generations to make an application for an ex gratia payment of up to $50,000. The second part of the scheme extends to the broad Aboriginal community. It is a $5 million whole-of-community reparation fund that will involve extensive consultation with Aboriginal people, with a particular focus on ways we can recognise, for all the community, the significant wrongs of the past. The scheme will get underway at the end of next month, and I am sure that members in this place will help us promote the scheme and make our people aware of it. It has been a long time coming.

At tomorrow's Apology Breakfast there will be more than 1,600 South Australians attending, remembering the national apology eight years ago and reflecting on those wrongs of the past with Archie Roach. The theme for tomorrow's breakfast is 'Heal our past, build our future, celebrating our heroes', and I think it is fitting that Archie Roach is a keynote speaker for this event.

Archie was taken from his family at an early age and has devoted his life, as a musician and an activist, to sharing his own experiences and those of other Aboriginal Australians. I am sure it will be very moving when he performs and speaks tomorrow, particularly if he plays his song *Took the Children Away* which, in the very early nineties, really focused public attention on the experience of members of the stolen generations. With the theme being 'Heal our past, build our future, celebrating our heroes', I think for many people Archie Roach is certainly one of those heroes.

Tomorrow we will remember and share our shared hope and vision for the state and our nation as a whole, for a future in which all Australians feel they are better understood by one another and in which all Australians belong in this community.

WATER ALLOCATION

The Hon. R.L. BROKENSHIRE (15:27): My question is to the Minister for Sustainability, Environment and Conservation, for Water and the River Murray, and for Climate Change. Will the minister confirm whether he will be implementing, or considering implementing, compulsory low-flow bypasses—yes or no?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:28): I have already given the honourable member an explanation, at great length, about low-flow bypasses and why we need to have them. Just to recap very quickly—

The Hon. R.L. Brokenshire: Yes or no?

The Hon. I.K. HUNTER: It is a complicated subject and he wants a simplified answer; perhaps because he is a very simple man. There are a lot of people with a lot of interest in this, and if you compare landowners, people who are working on the land at the top of the catchment, versus their neighbours further down the catchment there are issues of equity that are involved. If you allow people at the top of the catchment to take water and dam it without some mechanism to provide water down that catchment to the next landowner, who wants their dam to be filled, then you are going to set up a situation in our community where people are fighting each other and their neighbours for rights to water.

These are the issues that need to be looked at, and the solutions that are coming out are low-flow bypasses. That enables some water to trickle down the system when there is water coming through the system. Whilst the people of the top of the catchment are filling up their water catchments, others down the system, other irrigators and other landowners down the system who depend on that water—not to mention the local environment, that depends on those ephemeral flows—need to have some of that water coming into their own dams.

So, the Hon. Mr Brokenshire does not think about that. He is only thinking about the bloke at the top of the system. He is not worried about all those other landowners, their neighbours, who actually rely on the water as well. However, this government has to deal with the difficult issues of equity and access to water in the system and sharing it appropriately with the environment, and that is what we will do.

Bills

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Committee Stage

In committee (resumed on motion).

Clause 70.

The Hon. M.C. PARNELL: We were considering [Parnell-1] 40 which is to impose an obligation on the minister to publish on the planning portal a copy of any advice that has been furnished to the minister by the commission. We got to the point where members had expressed two elements of concern. The first one was whether two business days was too short, and I am happy to adjust that figure so that it reads 'within five business days' rather than two. The second concern was put in a question by the minister that maybe multiple drafts might be caught rather than any final advice, so I think that is simply dealt with, and I think we can do that on the run by incorporating the word 'final' so that it reads 'a copy of any final advice furnished to the minister by the commission'.

Over the luncheon break a further suggestion was made by one of minister Rau's advisers, and the intent of that was that perhaps the freedom of information test, which is a test that goes to confidentiality, might be included in here as well just to make sure that the minister was not putting something up on the portal which may have infringed privacy or whatever. I have fed back to the

minister's staff that, in principle, I think that we can put such a protection in place; however, I think it is at our peril if we try to draft a complex provision like that on the run.

I am in the hands of the chamber, of course, but what I would propose is that if we can agree—and I think, aside from the government, everyone else seemed to be quite agreed on a longer time—we will make it five business days, that is a week to seven days, and that we incorporate the word 'final'. I think we could let that go through. I have certainly given an assurance to the minister that if there is an extra level of protection that needs to be included in these words to protect confidential information, then we can consider that between the houses. This clause will not be Robinson Crusoe in terms of recommittals so, if members are happy to proceed on that basis, I move my amendment in an amended form:

Amendment No 40 [Parnell–1]—

Page 60, after line 30—Insert:

(9a) The Minister must, within 5 business days after taking action under subsection (9), cause to be published on the SA planning portal a copy of any final advice furnished to the Minister by the Commission for the purposes of this section.

The Hon. D.W. RIDGWAY: I indicate the opposition is very comfortable at this stage with those amendments and, like the Hon. Mark Parnell, I think if the government for whatever reason can find something wrong with it, I am sure that we could come to some other arrangement if we have to.

The Hon. K.J. MAHER: I thank the Hon. Mark Parnell for the work he has done on this. The government still opposes the amendment, but it is better than the terrible amendment it was before. If we can have a look between the houses, or if we are able to recommit, we could include words to the effect of 'subject to the protections afforded by the FOI Act' or however it is drafted to reflect that intention. I note the Hon. Mark Parnell's willingness to consider supporting this sentiment by a mechanism that we can look at.

Amendment as amended carried.

The CHAIR: The Hon. Mr Parnell's next amendment is No. 41, but subclause (10)(a) has already been dealt with in your amendment No. 33. Moving paragraph (b) would be a test for your amendments to clause 71; would that be right?

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

Amendment No 41 [Parnell–1]—

Page 60, lines 31 to 38—Delete subclause (10) and substitute:

(10) Subject to this Act—

(b) a decision of the Minister to adopt any other designated instrument, or the amendment of any other designated instrument, cannot take effect unless or until—

(i) the designated instrument or amendment has been laid before both Houses of Parliament under section 71; and

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

In some ways, it is a little bit unfortunate that this issue comes up at this point because, effectively, what I now need to do is speak overwhelmingly to clause 71 whilst dealing with an amendment to clause 70. The reason for that is that clause 70 basically sets out the procedure that the minister and the commission have to go through when changing planning policies. It makes sense that at the end of a clause like that that there would be a provision which says 'when it comes into operation'.

As it is currently worded, these designated instruments or planning policies come into operation when they have been approved by the Governor and there is a notice published in the *Gazette*. They do not come into operation until they are published on the planning portal, and they come into operation on a date to be specified, so they are fairly standard clauses for changes to the law—planning law, in this case, or planning policy—to come into effect.

The reason I need to move amendment No. 41—and as the Chair has rightly said, we have already dealt with paragraph (a) so I will not be moving that, I will only be moving paragraph (b)—is that it includes a new provision which says that a decision of the minister to adopt a designated instrument cannot take effect unless or until the designated instrument has been laid before both houses of parliament and every motion for disallowance has been defeated or withdrawn or has lapsed in accordance with the scheme set out in that section, and that section is section 71.

Of all the issues in this bill, we have not divided on too many of them. I am hoping we will not need to divide on this but, in case we do, I am certainly prepared to because this goes to the heart of the credibility of the planning system and, in particular, the credibility of parliament in its dealings with the planning system. I have spoken about this at some length over the last 10 years in parliament, so I will now give just a very potted version of why this is important.

Every member of parliament at some stage would have been approached by residents, by community groups or by other stakeholders who are dissatisfied with a decision that has been made by planning authorities in relation to planning policy or zoning—people who are unhappy about how land has been zoned, unhappy with height limits or unhappy with restrictions on the form of development that is allowed. The standard response a member of parliament has to give their constituent is, 'Not much I can do about it.' That is usually the response.

The constituents then come back and say, 'But, hang on. I've read the Development Act. There is a whole section called "parliamentary scrutiny".' When you read that section you can find a mechanism for either house of parliament to be able to effectively disallow a change to the planning scheme. People hang their hat on that clause and say, 'Don't you tell me, member of parliament, that there's nothing you can do about it. It says in the Development Act that you can disallow these planning schemes.' If you are in the know, you then have to say to your constituents, 'There's a catch. It says parliamentary scrutiny, it says parliament can disallow planning changes, but there is a catch.'

The catch is that a planning policy does not get to the floor of parliament, it does not get on our agenda, unless it is put on our agenda by the ERD Committee of parliament. In other words, as I describe it, the ERD Committee is the gatekeeper. If the ERD Committee resolves to disallow a planning policy, then that is the only mechanism by which parliament can decide the matter. It requires the ERD Committee to move to reject the change, then it goes to parliament and then either house can vote on it How often has that happened since April 1994?

The Hon. D.W. Ridgway: It has happened once in my lifetime.

The Hon. M.C. PARNELL: The Hon. David Ridgway interjects that it has happened once. I think the Hon. David Ridgway would recall that it did not actually get to a vote because heads were banged together and it was resolved outside the voting process. It was only that one time.

It would be unparliamentary to have a dialogue with the Hon. David Ridgway but, through the chair I could ask him how many times the ERD Committee, over the last 22 years, has considered a planning scheme with serious objections from a local council or from individual landholders. I could ask the number of times the Liberals and Greens have voted together to say, We don't like it.' I am not being facetious here—lots of times.

The problem is that the ERD Committee as a government-controlled committee, with the chair having the casting vote, does not send any planning scheme beyond the walls of that committee. They do not come to the parliament for voting. This is what I consider one of the frauds of the current Development Act, and it is a fraud perpetuated in the Planning, Development and Infrastructure Bill; that is, we hold out hope to citizens that their elected members might actually do something to represent their interests and might actually bring on something for a vote if clearly it is an unpopular measure.

The Hon. Dennis Hood is happy to have the local residents veto a certain type of planning change. I make the point that, consistent with that approach, if the people of South Australia through their elected representatives think a planning change should be vetoed it is a bigger electoral college—we are talking the whole parliament rather than just 51 per cent of residents or property owners in a certain area. The mechanism I am proposing is very simple and not one that I have made up. It is the mechanism we have already for regulations.

We are all well aware of the parliamentary scrutiny regime for subordinate legislation, for regulations, and that is that there is a special committee of parliament. The Hon. Gerry Kandelaars chairs that committee. That committee is charged with examining regulations. They can hear from witnesses, they can hear from stakeholders about the effect of regulations, and they can recommend disallowance. But, in parallel with that process, if any member of parliament thinks that regulations are inappropriate and ought be disallowed, then any member of parliament can move that way.

In my coming up to 10 years here, I would have seen probably several dozen motions to disallow regulations. Sometimes they are successful, sometimes they are not, but from a democratic perspective you have a system of laws and rules being created by the executive. They are not debated in detail in parliament; they are delegated or subordinate legislation. Parliament has a disallowance role.

Let's look at the planning system: it is exactly the same. These planning schemes, these designated instruments, effectively are planning laws and dictate what you can and cannot do. They have force of law. They will determine the outcomes of planning applications. It seems to me to be entirely consistent with the approach in relation to subordinate legislation to use exactly the same model for these planning schemes. It is not to say that the ERD Committee would no longer scrutinise these changes. They would still do that. They would still hear from witnesses. They would still potentially make recommendations.

In fact, I do not need to go into a lot of detail, but the ERD Committee met this morning. One of the items on our agenda was some people who are unhappy with where the zone boundaries had been drawn in relation to a country area in South Australia. Landholders were concerned that they thought the government had got it wrong and put the line in the wrong spot. They came and they spoke to the committee of parliament as to their concerns, and the committee can then go to the minister and say, 'We think these people have got a point. Maybe you want to have a think about changing where you've drawn this line on a map.'

I think that process should continue. It is a process I have been part of for 10 years, and I think it should continue, but the question for us now is whether that process with a government-dominated committee, with a government chair with the casting vote, should be the only way that the parliament can get to consider an important planning change. If you think, 'Yes, that's alright, that's the only way. We don't really want the same powers over planning laws as we want over dog management regulations,' so be it, you can stick with the status quo.

What I can say is that I am a regular attendee at town hall meetings where these issues are discussed. I do not believe in threatening other members, but I will just make the observation that, if any member of parliament wants to go along to one of these town hall meetings and say, 'We reckon this zoning change is crook and we would love to do something about it but we can't,' then I will have really no alternative but to remind people that, actually, you could have fixed this up. You could have fixed it up when the planning bill was being debated.

If members want to tie their own hands, and they voluntarily agree that zoning changes should never, ever be knocked off, regardless of how unpopular or how unsuitable they are, then do not vote for this amendment, but just remember the consequences. The consequences will be that, every time the community complains to you about planning rules and you tell them, 'Sorry, there's nothing we can do about it,' the response has to be: you could have, you could have fixed it up; you could have voted for these amendments.

I know I am going on a little bit, but the reason I have to move this amendment now is that the mechanism I have in mind is, like I say, the parallel mechanism. The ERD Committee will continue to deal with these planning changes but, in parallel, the parliament will have that right as well. What we do not want is for the parliament to be able to unreasonably hold up forever a planning change coming into operation. It has to be time limited.

At present, whilst the regulation disallowance is time limited in terms of bringing the motion or at least putting it on the *Notice Paper*, it does not matter if the vote is a year later because the regulation has remained in operation, so there is no harm done. You can sit on a disallowance motion forever, and it does not actually affect the operation of the regs; they keep going.

Under my model, I do not think these planning changes should come into effect until the parliament has considered it, which means you need some strict time limits to make sure that the parliament does not sit on it. We will see whether we get to clause 71 to debate any of the finer detail of my model, but I think people have seen it before.

Basically, I have a six-sitting day period. If the parliament has not dealt with it in six sitting days, then it is going to go through. I think it is a reasonable compromise. It allows the parliament to directly consider these planning changes, but does not allow the parliament to unnecessarily frustrate the process, as you have to actually get onto it quickly. That is the purpose. I think I sought leave to move my amendment No. 70 in amended form; that is, I will just be moving paragraph (b) of that amendment.

The Hon. K.J. MAHER: I rise to inform the chamber that the government does not support this amendment. I will not take too long but will speak briefly, as the honourable member did, not just to this slightly amended amendment but more generally to some of what is envisaged in the next set of amendments on clause 71—the parliamentary scrutiny.

I note that, during the member's contribution, he talked about the very, very rare circumstances in which these have been disallowed before. I think there was a suggestion from the honourable member that that is why it essentially needs more teeth and a more robust approach to allow parliament, not just the committee, to involve itself in these matters. I think equally one could make the argument that if it has happened so rarely in the past the checks and balances that happened before that are working very well. I understand what the honourable member is saying but I think equally you could argue that it happened so rarely because the checks and balances that were there before have worked very well.

The amendments, if passed, would alter the approach to scrutiny in the bill to bypass the ERD Committee and could end up flooding both houses of parliament with every designated instrument developed or amended under this bill. This would mean that, for example, the proposed amendment to the planning and development code, in order to rezone an area, would be prepared by the commission and consulted on in accordance with the community engagement charter and then subjected to a parliamentary scrutiny process far in excess of that imposed on the development plan amendments under the current Development Act.

The amendments would provide that no instrument or amendment can take effect until every motion for disallowance has either lapsed, been defeated or withdrawn. I note that the time frame (which I think we are going to refer to a bit later on) is six sitting days, but that still places a huge burden that is not there at the moment. This would have a very real possibility to stymie the very purpose of many of these reforms—which is to streamline and improve the current planning development system and help to unlock development in this state which is a very worthy aim and an aim that many members have already spoken about today and on previous days.

The Hon. D.W. RIDGWAY: I have a couple of questions of clarification that I would like to ask the mover and I guess it is, in practice, how this might work. If we were to support the honourable member's amendment and it became law, my understanding is that a member would be able to move a disallowance on any instrument that falls under or is captured by the bill or by this amendment, and that we have six sitting days to deal with it.

The Hon. M.C. Parnell: Not state planning policies.

The Hon. D.W. RIDGWAY: Not state planning polices but rezonings and a whole range of things. The wording here in (b)(2) is that it cannot take effect unless or until every motion for disallowance has been defeated or withdrawn or lapsed in accordance with the scheme that is set out in the section.

I will use this chamber as an example and you might correct me if I am wrong. In the last Senate election—which could happen in the Legislative Council under our current rules—somebody could be elected with a very small percentage: 1.5 or 2 per cent and in fact in the Senate less than 1 per cent. My understanding is that they could continually move disallowance motions, wait six days, lose it, stand up and move another one; wait six days, lose it, stand up and move another one and it could go on and on continually.

That certainly is not something that the opposition is attracted to because it is a mechanism for somebody who has a very small potential constituency who was elected but they will be, if you like, the lightning rod for people who want to stop a rezoning of something, to go to; to use a mechanism to continually frustrate the process. I would like to hear the member's response to that because that is of real concern to the opposition.

The Hon. M.C. PARNELL: I thank the member for his question. That is certainly not how I envisage this working and I do not think it is how it has been drafted. Basically it is a six-day time limit compared, for example, to 14 sitting days—which is the current disallowance period for regulations.

Certainly the way I have asked for it to be drafted, and the way I have interpreted it, is that it is not just a question of moving the motion and having it sit on the *Notice Paper* as order of the day, private business for ages and ages and then frustrating the ability of a final resolution to be made. Also, I do not see this as an example of—once the initial six days are up there is no further six-day period that starts. You have to get onto it quickly and if you are not onto it then parliament has lost the right to disallow. That is the way I see it going.

The honourable minister commented before that the system must be working well if it has not come to the chamber very often. I will just give an example. On the ERD Committee a number of years ago, one issue the Greens and the Liberals had in common was that we were very unhappy with the rezoning of part of the Glenside Hospital site, basically for offices and flats, because that was what was proposed.

My recollection is that the Greens and the Liberals voted together, and I think for a very short period we had the Hon. Bob Such on side as well. That was one of those rare cases where it did get through. Unfortunately, before parliament could sit again, the honourable member had a change of heart and so it became a 3-3 result and, under the Parliamentary Committees Act, the government appointed chair has the casting vote. That was a case of where you had the member for Bragg, for example, out there in her electorate saying, 'This is terrible. We shouldn't be doing this.'

I am offering you an opportunity to do something about it. There is no way you can deal with it at the moment because equal numbers on the ERD Committee mean that the government wins. That is why you have managed to find one example from about 13 years ago—it was certainly before my time. It is in folklore. I think it was to do with a bakery or something in the city. It was panel beaters, a crash repair business in the city. It is memorable because there has only been one in the whole time that the act has been in operation.

My answer to the honourable member's question is that I do see this as a tight process. It is not one that would drag on forever. If it turns out that there is further tweaking to clarify time limits, we can have a look at that, but the vote for now is on the principle. The principle is: should parliament be able to disallow, despite anything the gatekeeper might or might not do?

The Hon. D.G.E. HOOD: I thank the honourable member for his answer to the Hon. Mr Ridgway's question. I just want to pin him down because I am really trying to be clear in my own mind about this.

While I accept that it is not the honourable member's intention that these things happen, my reading is that there is nothing stopping that from happening. If somebody wanted to be difficult, for want of a better word, they could do exactly what the Hon. Mr Ridgway has suggested; that is, they could move the motion, six days later move it again, and just keep it going and going if they had a particular issue with a particular proposed development. They could just keep doing it and doing it and frustrate the whole thing because they individually did not like it. Is that possible under what you are proposing? My reading is that it is.

The Hon. M.C. PARNELL: I thank the honourable member. I can see why he would want to tie this down because it is important. My proposed amendment No. 45, which is to clause 71, proposes a new subclause (11). It states:

A House of Parliament may disallow the instrument if the House is acting in pursuance of a notice of motion given during the period commencing when the designated instrument was laid before the House under subsection (2)(b) and ending 6 sitting days after the report of the ERD Committee was laid before the House under

subsection (10) (including in a case where the ERD Committee is still considering the matter under a preceding subsection).

That is, we do not want the ERD Committee to delay the process either. That is the way it has been drafted. If, as we explore it, people think, 'Well, it is not quite tight,' what I would say is that the intention was, and certainly my instructions were, that this was going to be a quick, tight process. Parliament cannot just keep deferring it. It has to deal with it quickly; hence the six-day time limit.

What members are probably referring to is if it was unreasonably adjourned day after day, a refusal to debate. If it is those sorts of issues, then we can have a look at whether something needs to be added to deal with that. My understanding is that it had to be dealt with in the six days; if that is not the case, we can talk to parliamentary counsel, but that certainly was my intention.

I can take further advice on it, but what I would like to get the committee's support on, given that there are the provisions of this bill where there has been a level of detail, a bit of uncertainty about whether it is the section we have just dealt with or this one, and what I am looking at is the principle. If this particular amendment to clause 70 goes down, then effectively the rest of 71 is consequential. We will have the status quo. We will have lost forever the right of members of parliament to disallow planning policy.

If you think there is a glimmer or a chink of potential and you want to work a bit more on the detail, you need to support this amendment now. Whether it is on recommittal or between the houses, we can tidy up any uncertainties to make sure that it is watertight, that there is no way that either house of parliament can delay voting on the issue. If that is the concern members have, certainly that is my commitment. I am happy to get that watertight provision in here, if it is not already. The failure of my amendment No. 44 means that we will not even debate clause 71 really because the status quo will remain.

The Hon. D.W. RIDGWAY: I will backtrack a bit, then finally give the member the opposition's position. The expert panel put in place by the government to review planning and all the commentary I have referred to about the opposition's policy around the independent Planning Commission of Western Australia was all predicated on growth and development. There is always an interesting and sometimes challenging arm wrestle between the community's interest and development, and honourable members are often in this place talking about that.

The minister would argue it is not the fault of the planning system, and I would argue it is after 14 years of the honourable member's mob being in government, and we are at the bottom of the pile as far as economic growth, economic activity and jobs. There is a whole range of indicators that show that South Australia has slipped below Tasmania.

Looking at this piece of legislation, I know that the honourable member's intentions are to have parliament more involved but, at the end of the day, when looking at this I can see a whole range of opportunities for frustration. I know the honourable member will be frustrated with where I am heading with this conversation, but he is probably not surprised because I have headed in that direction before.

As I said, potentially somebody could be elected to this place on a very small minority who may not even be as honourable as the Hon. Mark Parnell (because I think at times he is quite reasonable and sensible when it comes to some of these planning issues—not always), somebody who, just for the sake of wanting to be in the media and getting attention, could be constantly frustrating the system.

I can see what the honourable member's intention is, but I think the risk for the state is too great to allow the risk of somebody who does not have honourable intentions or who sees it as a way to wedge themselves in. I think this opposition, in both this chamber and the other, is way more honourable than, if there is a change of government, I suspect that opposition will be when they are sitting here.

I remind members about the time when we were doing the Olympic Dam indenture. The Hon. Mark Parnell was on his feet and I was in the corner of the room talking to the treasurer (I am not sure whether Kevin Foley was still the treasurer, but whatever role he had at the time) and

Andrew Mackenzie from BHP. There were some comments made about the character of the Greens' member on his feet, and I explained who you were and how you fitted in.

Andrew Mackenzie was thankful for perhaps the role that the opposition was playing. I said to Kevin Foley and Andrew, 'Of course, if we were the government, Kevin and his mates would be with the Greens voting against this,' and Kevin said, 'Yes, we would.' Maybe it was just a late night, off the cuff comment but, at the end of the day, we have to make sure—

The Hon. G.E. Gago: That would be unlike him.

The Hon. D.W. RIDGWAY: Off the cuff, late at night—well, maybe. I probably should not mention his name in that sense, but I make the point that I am nervous. In a perfect system and in a perfect world, where people are there with all the right intentions, you possibly could have this extra scrutiny, but I am nervous that there will be opportunities in the future for future oppositions and future Independents or people who have been elected to this place to have an influence.

The Hon. John Rau says he does not want another Mount Barker on his watch, but it was his government. He might have been sitting in the corner not paying attention when it happened, but it was his government. He does not want that, but I do not want to be in this place saying, 'We don't want anything to happen at all and we want it to be frustrated.'

I know that will frustrate the honourable member, but the opposition cannot support this amendment for the fear of it putting too big a handbrake on what is going on and allowing parliamentary scrutiny to the level where it could frustrate the growth and progress of this great state at a time when we really need to try to grow and expand the state after 14 years, and definitely 16 years, of a government that really has not done the best job it could have. With those few words, and I know that the member will be disappointed, the opposition will not be supporting the amendment.

The Hon. J.A. DARLEY: Having regard to the intention of the Greens' amendment, and any suggested changes to strengthen it to make it clearer, I will definitely support the Greens' amendment.

The Hon. K.L. VINCENT: Just to assist the committee, Dignity for Disability also supports this amendment.

The committee divided on the amendment:

Ayes.....4
Noes 16
Majority 12

AYES

Darley, J.A.	Franks, T.A.	Parnell, M.C. (teller)
Vincent, K.L.		

NOES

Brokenshire, R.L.	Dawkins, J.S.L.	Gago, G.E.
Gazzola, J.M.	Hood, D.G.E.	Hunter, I.K.
Kandelaars, G.A.	Lee, J.S.	Lucas, R.I.
Maher, K.J. (teller)	Malinauskas, P.	McLachlan, A.L.
Ngo, T.T.	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.		

Amendment thus negatived; clause as amended passed.

Clause 71.

The Hon. M.C. PARNELL: Amendments 42, 43, 44 and 45 are all the amendments to clause 71. They are consequential to the debate that we have just had; however, my understanding

is that I can move them and not vote on them because otherwise they do not appear in *Hansard* and no-one will know what I tried to do. Is it possible for me to move them en bloc and have them voted down consequentially so that at least they are in *Hansard*?

The CHAIR: My advice is that it is a damn nuisance but just to assist you—there will not be a division, though, will there?

The Hon. M.C. PARNELL: No, I am not going to divide on them.

The CHAIR: The Hon. Mr Parnell, you can move the amendments en bloc.

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

Amendment No 42 [Parnell–1]—

Page 61, lines 4 and 5—Delete subclause (2) and substitute:

(2) The Minister must—

(a) within 28 days after adopting a designated instrument refer the designated instrument to the ERD Committee; and

(b) within 6 sitting days after adopting a designated instrument cause copies of the designated instrument to be laid before both Houses of Parliament.

Amendment No 43 [Parnell–1]—

Page 61, line 6—After 'referred' insert:

to the ERD Committee

Amendment No 44 [Parnell–1]—

Page 61, lines 37 and 38—Delete paragraph (a) and substitute:

(a) the Minister may proceed to make such an amendment and report back to the ERD Committee; or

Amendment No 45 [Parnell–1]—

Page 62, lines 8 to 28—Delete subclauses (10) to (14) and substitute:

(10) The ERD Committee must then prepare a report on the matter and cause copies of the report to be laid before Houses of Parliament.

(11) A House of Parliament may disallow the instrument if the House is acting in pursuance of a notice of motion given during the period commencing when the designated instrument was laid before the House under subsection (2)(b) and ending 6 sitting days after the report of the ERD Committee was laid before the House under subsection (10) (including in a case where the ERD Committee is still considering the matter under a preceding subsection).

(12) If either House of Parliament passes a resolution disallowing a designated instrument before it under this section, then—

(a) if the designated instrument already has effect under another provision—the designated instrument will cease to have effect (and if the designated instrument is in fact an amendment by virtue of the operation of subsection (1), the relevant designated instrument will, from that time, apply as if it had not been amended by that amendment); and

(b) in any other case—the designated instrument cannot take effect.

(13) If a resolution disallowing a designated instrument has been passed, notice of that resolution must immediately be published in the Gazette.

(14) If or when a designated instrument can take effect after taking into account the operation of section 70 and this section, the Minister may, by notice published on the SA planning portal, fix a day on which the designated instrument will come into operation.

Amendments negatived.

The Hon. K.J. MAHER: I move:

Amendment No 31 [Emp–4]—

Page 61, after line 35—Insert:

(7a) If—

(a) the ERD Committee is proposing to suggest an amendment under subsection (4); and

(b) the amendment is specifically relevant to a particular council or councils,

then—

(c) the ERD Committee must, before resolving to suggest the amendment, refer the amendment to the council or councils for comment and a response within the period of 2 weeks; and

(d) any period applying under subsection (5), (6) or (7) will be extended, by force of this subsection, by an additional 21 days.

The changes to a state planning policy, regional plan, the planning and design code, or a design standard are subject to parliamentary scrutiny through the ERD Committee. This amendment ensures that the ERD Committee consults with affected councils before resolving to suggested amendments that are relevant to those councils. This amendment has been made in response to a suggestion received during consultations with the LGA.

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

The Hon. M.C. PARNELL: I think this largely reflects the practice of the ERD Committee but I think it makes sense to formalise it. To be honest, most of the people complaining about planning changes are the councils. They are the ones who come to the committee and they are usually complaining about the minister unilaterally changing their hard work in revising their planning schemes and at the last minute the minister has gone and messed with it, so they come to the ERD Committee in the vain hope of some relief.

I think that in the case, for example, where it is a landholder who is upset at a planning change, then it makes sense for the council to be notified. Sometimes they will turn up to a hearing at the ERD Committee, but more often than not they will not. I think this is a sensible amendment and the Greens support it.

Amendment carried; clause as amended passed.

Clause 72.

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

Amendment No 1 [Ridgway–4]—

Page 62, line 30—After 'may' insert:

, after seeking the advice of the Commission,

This is one of a number of amendments where we want to give more responsibility to the commission and take it away from the minister—a similar flavour to what the government has done with a range of their amendments too. I think it reflects some of the practices around the nation in other states where having more independence in the commission has been seen to be a positive. I know in discussions with some of the interstate Liberal governments and Liberal oppositions that they have said this is something we should be looking at where possible. My first amendment is after 'may' insert the words 'after seeking the advice of the Commission'.

The Hon. K.J. MAHER: I indicate that the government opposes this amendment. The government has listened to suggestions during consultations that the commission should have a greater prominence and has, indeed, been involved in the formulation of regional plans and hence has drafted amendments 12 to 15 as set forward. These amendments, which have already passed, will amend clause 61 relating to regional plans to place the commission firmly at the centre of this process of preparing regional plans consistent with state planning policies in the area that remains outside of the area for which a joint planning board has been constituted.

In an area for which a joint planning board has been constituted, the joint planning board must prepare the plan. Given this, I submit that the proposal, to involve the commission in providing advice as to changes to the code that comply with regional plans, is unnecessary.

The Hon. D.G.E. HOOD: I think I have been consistent in the position that we believe that governments should have the right to govern, but that said I think really what the opposition is asking here is not terribly onerous. All the amendment would do is ensure that the minister seeks the advice of the commission. I understand the minister's point that, given other provisions in this bill, that would already have occurred. That said, I do not see any harm at all in ensuring that that is inserted into the bill and for that reason we will support it.

The Hon. M.C. PARNELL: Our position is similar. It seems that the government's argument seems to be that we have incorporated lots of consultation with the commission, but we do not want to put it in here. I do not get it really. If it is overkill, so be it, but if the intention is for the commission to be involved then this makes it crystal clear that the obligation on the minister is to work with the commission so we will be supporting it as well.

The Hon. J.A. DARLEY: For the record, I will be supporting the opposition's amendment.

Amendment carried.

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

Amendment No 46 [Parnell–1]—

Page 62, after line 40—Insert:

(1a) An amendment under subsection (1) must be the subject of consultation under the Community Engagement Charter.

This really is in the same vein. It is basically incorporating a new subclause that an amendment under subsection (1) must be the subject of consultation under the community engagement charter. In my submission, it is why we have a community engagement charter—to drive consultation. Clause 72 talks about amendments to the planning and design code so it is a bit of a no-brainer really that those sorts of changes need to go through the process set out in the community engagement charter. We do not know what that process will be. That will be a debate for another day, but certainly I would have thought that this was consistent with what the government has said so far, so I would be surprised if it is contentious.

The Hon. K.J. MAHER: I would like to say that the government does not support this amendment. It was a key recommendation of the Expert Panel on Planning Reform that changes to zoned boundaries that conform with the strategic intent as mapped in the relevant regional plan should not require further consultation to be given effect. In other words, it is appropriate to consult on the regional plan, but not to litigate matters again if all you are doing is implementing that plan.

I know that the honourable member in the previous amendment said it is great to have further consultation and if it is overkill, then so be it. We do not agree with that. If it is overkill, then we think it is probably worth not doing. We think it is burdensome and will create unnecessary burdens, and we are keen to see development progress in this state.

The Hon. D.W. RIDGWAY: The community engagement charter is something which we do not as yet have an understanding of, or understand how it should operate. It will be interesting to see the format of that, although I am told that it is two or three years of regulations and drafting of planning policy and codes before we see it, so it may well be that Steven Griffiths will be the minister of planning dealing with it rather than the Hon. John Rau or any other minister who might be sitting up there or in another place.

The Hon. M.C. Parnell: Minister Maher staked a claim on this portfolio.

The Hon. D.W. RIDGWAY: Minister Maher: well, he will need some good advisers around him, and just as well he has some today. The opposition is willing to support this amendment. If the community engagement charter process works properly and the community is involved, that is the important thing. I should not always go back to what I learnt from the Western Australian model, but I recall their engagement with the community to map out the future growth of Western Australia, particularly Perth.

You then look at what happened in Perth. When I was a boy at school, Adelaide was the third biggest city in this nation and now we are the smallest state city in the nation, and Perth was smaller than Adelaide. The growth and the economic development that have taken place largely

have been underpinned by what has happened in the planning system there and, in recent times, by the mining boom. The planning commission had dialogue with the city.

The minister and the planning officials in the gallery or advisers sitting over here should note that it is something well worth looking at to see how you engage the community to have some involvement in the future shape of the city and where people live. My study of that was how people actually understood about population densities, available infrastructure and the ability to deliver infrastructure, which is much broader than we have ever seen in this state from an engagement viewpoint. I think I spoke at length on that in my second reading contribution.

If the community engagement charter works properly, then I do not believe this will be an extra burden. We are happy to support it. I know the minister has some concerns about it being almost an overload and a duplication, but I think that if it is done properly it should not be a burden and not an extra layer of activity that slows down things. We will support it, but in the long-term it is dependent on how well the community engagement charter is developed and how well the community is brought along with that journey.

The Hon. J.A. DARLEY: I will be supporting the Greens' amendment.

Amendment carried.

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

Amendment No 2 [Ridgway-4]

Page 62, lines 41 and 42—Delete subclause (2).

This amendment refers to subclause 72(2), which states:

(2) The minister has an absolute discretion about whether or not to agree to an amendment under subsection (1).

Given our previous view that the commission should have more of a say, the intention of this amendment is to delete that. I referred to the WA model, which is often referred to around the nation as the best practice, and anything the minister does is tabled in parliament. I have not seen that anything to do with this will be tabled in parliament. We think it is a better operation if we take the minister out of this, so I urge members to support the amendment.

The Hon. K.J. MAHER: I rise to indicate that the government opposes this amendment that would significantly water down and fetter the minister's discretion in approval of changes to the planning and design code. I think it is relevant to some of the arguments we spoke about yesterday in terms of the Westminster system, the ultimate judgement being made by the minister and the minister being judged by the electors on what they have done in relation to this.

As mentioned previously, the Expert Panel on Planning Reform recommended that changes to zone boundaries that conform with the strategic intent as mapped in the relevant regional plan should not require further consultation to be given effect. We submit that the provision as drafted, when read with clause 61 as amended earlier by amendments 12 to 15, provides significant involvement of the commission in the development of regional plans consistent with state planning policies in any areas that remain outside the area in relation to which a joint planning board has been instituted.

The Hon. M.C. PARNELL: I find this to be a most curious sort of provision, and I think it is about the only one, at least that I can remember now, that is in the bill where it sets out a mechanism that says that the minister can do something and then sets out that the minister has to be satisfied of this and this and, normally, that is where it ends. There is just a provision: 'Here are the decision-making criteria. The minister can make a decision.'

But this extra thing down the bottom, saying, 'The Minister has an absolute discretion about whether or not to agree to an amendment under subsection (1),' I call it a suspicion arousing clause, where you are thinking that normally you do not put clauses like that in. You normally set out the power to make a decision, the factors that have to be taken into account and the people who have to be consulted, and that is the end of it.

I am curious about why this needs to be here because the rest of clause 72 states: 'The Minister may initiate or agree to an amendment to the Planning and Design Code,' and then it states 'if', and then there are some criteria that have to be met in paragraph (a). There are further requirements in paragraph (b), and normally that would be the end of it. You do not normally have an extra clause which effectively says, 'If the minister decides to ignore all those things, so be it because he or she has an absolute discretion.'

I find it a most curious clause, so my inclination is to agree with the Liberals and delete it. I cannot see that there is any particular work that it has to do. I do not like provisions which set out a decision-making process and then have a catchall, protective clause at the end which effectively says that, regardless, the minister can do whatever he or she wants, which I think is what this is saying.

I do not know whether the government has advice. There might be legal advice they have that people will try to trip up the minister by bringing judicial review proceedings to say the minister has not followed the proper process and they need this subclause (2) to somehow protect the minister from unwarranted legal claims. I have never heard that point being made. I do not have any evidence of that. If the minister has evidence as to why, in all the provisions of this bill, having an absolute discretion clause is needed, I will hear it but, if I am not satisfied, we will be supporting the Liberal amendment to delete the subclause.

The Hon. J.A. DARLEY: I will be supporting the Liberal Party's amendment.

Amendment carried; clause as amended passed.

Clause 73.

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

Amendment No 6 [Ridgway–1]—

Page 63, lines 36 to 38—Delete paragraph (c)

I will read paragraph (c) to the members:

> (c) in order to provide consistency between the designated instrument and subsection (3) of section 7 after a notice under subsection (5) of that section has taken effect in accordance with that section…

That will mean nothing to anybody. Prior to Christmas, it was probably consequential or it was the effect of our amendments that were supported to remove the urban growth boundary. This is another amendment that relates to not having an urban growth boundary.

It is interesting that the honourable minister talks about the expert panel in relation to certain aspects of this bill but ignores the fact that the expert panel did not advise that we should have an urban growth boundary or, for that matter, any infrastructure levies, which is obviously an issue we will come to probably next sitting week, given the time. This amendment is in relation to the removal of the urban growth boundary, so I urge members to be consistent in their support of our position before Christmas and, to those who supported us, I look forward to their support again.

The Hon. K.J. MAHER: I indicate that the government accepts what the Leader of the Opposition says, that this relates to something that was essentially litigated in this place before the break.

The Hon. D.W. Ridgway: It is almost consequential.

The Hon. K.J. MAHER: We agree that it is, in effect, consequential to decisions that this chamber took prior to the break. We had views about the original clause, but we accept that it is effectively consequential to those earlier.

The Hon. D.G.E. HOOD: Briefly, given that we also accept this is consequential, we will not be accepting an urban growth boundary and therefore we support the amendment.

The Hon. M.C. PARNELL: The Greens did take a slightly different view. We think that the statutory urban growth boundary still has merit. We urge the government to reconsider how it might be configured to deal with some of the objections that have been made. I strongly urge the government to go back to the drawing board on that one. Certainly. the concept is one that the

Greens have supported, so I am disappointed to say to the Hon. David Ridgway that we will not be able to support this amendment but look forward to re-agitating the urban growth boundary perhaps on recommittal or between the houses.

The Hon. J.A. DARLEY: I will be supporting this amendment, but I will suggest that there is more to come yet.

The Hon. K.L. VINCENT: Briefly, given Dignity for Disability's position on the urban growth boundary prior to the recess and being consistent with that, we will also oppose this amendment.

Amendment carried.

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

Amendment No 3 [Ridgway–4]—

Page 64, after line 23—Insert:

(3a) The Minister must consult with the Commission before making an amendment under this section.

This is about making sure that the commission has a greater role, and so we insert a new subclause (3a), that the minister must consult with the commission before making an amendment under this section. I think it is consistent with our view—and we have a range of amendments that we moved or tabled not that long ago, certainly after Christmas—that we are keen to have the commission take a stronger role in the planning process.

The Hon. K.J. MAHER: I indicate that we are showing the love to the commission and beefing up their role and their involvement, so the government is going to support the Leader of the Opposition's amendment.

Amendment carried; clause as amended passed.

New clause 73A.

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

Amendment No 47 [Parnell–1]—

Page 64, after line 29—Insert:

73A—Publication

The Minister must ensure that an up-to-date copy of each designated instrument is published on the SA planning portal and available for inspection and downloading without charge.

This is a very straightforward clause and I am hoping that there will not be any opposition to it. Basically, it is adding a bit of meat to the bones of the government's planning portal. I think it gives effect to what the government says it wants to do anyway, that is, to make sure that an up-to-date copy of each designated instrument—in other words, every planning document—is published on the SA planning portal and available for inspection and downloading without charge.

That latter component I think is something we might have touched on before, that the portal should be free. We have talked about councils having to pay their share of keeping the portal up to date and that has already been resolved. When it comes to members of the community accessing documents then, to be honest, I am not sure that there are very many government websites where you need to pay to download documents.

There are government websites where you actually need to click on an 'I agree' type of button, agreeing not to misuse the information. A good example of that is the Development Assessment Commission's website. If you want, as I did the other day, to download the plans for the Festival Plaza, or the public realm part of the Festival Plaza, submissions for which closed last week—if you want to find out about the footpath that goes underneath the Premier's window, but let's not go there—if you want to get that information, you have to click on a button on the Development Assessment Commission website saying, 'I agree that I am only accessing this information for the purposes of engaging in the consultation over the appropriate response to this development application,' or words to that effect.

My amendment does not preclude the government attaching some conditions. Mind you, I think that is over the top, making people click that button, because as members of parliament the main reason we click the button and download the information is to give it to journalists. Leaving that to one side, my amendment basically says the documents should all be there—that is the first point—they should be available for inspection, you should be able to download them as well, and it should not cost you anything. I think that that is pretty much the status quo.

There have been some exceptions over time. For example, the Building Code of Australia until about the last year or 18 months cost a motza. Even though it is part of a law of South Australia, you could not just download it for free. They had this commercial arrangement where you had to pay for it. It cost you a fortune to get a copy of relevant bits of the building code. The point I am making is that these designated instruments are part of the law of South Australia, the planning laws, and it is a basic principle that all citizens should have access to it and it should not cost them. I think this is a sensible amendment, and I am hoping the minister sees likewise.

The Hon. K.J. MAHER: I indicate to the leader of the Greens that the government is willing to support this amendment, together with Parnell amendments Nos 27 and 51, as it is intended in any case to publish up-to-date copies of such instruments on the SA Planning portal to download free of charge on the basis that has already been indicated.

The Hon. D.W. RIDGWAY: I also indicate that the opposition will be more than happy to support the Hon. Mark Parnell and the Greens' amendment.

The Hon. K.L. VINCENT: Just for the record, given the ever-growing availability of this newfangled internet thing and its important role in democracy, Dignity for Disability is also happy to support this amendment.

New clause inserted.

Clause 74.

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

Amendment No 48 [Parnell–1]—

Page 64, lines 32 to 39—Delete subclause (1) and substitute:

(1) If the Minister is of the opinion that it is necessary in the interests of the orderly and proper development of an area of the State that—

(a) an amendment to a regional plan should come into operation without delay; or

(b) the Planning and Design Code or a design standard should come into operation without delay in order to counter applications for undesirable development ahead of the outcome of the consideration of the amendment under this Part,

the Minister may, at the same time as, or at any time after, the amendment is released for public consultation under the Community Engagement Charter under this Part, and without the need for any other consultation or process, by notice published in the Gazette, declare that the amendment will come into operation on an interim basis on a day specified in the notice.

I did mention that there was an earlier issue which was on my greatest hits collection, one of the few issues on which I am adamant that we have to get a better outcome for the people of South Australia. Fortunately, this one is one that has passed this chamber before, with crossbench and with Liberal support. It was under a different name last time. The title of this clause now is Early Commencement'. Under the current system it is called 'Interim operation'.

What I will not do is go back through all of the outrageous cases of interim operation that have thwarted the right of people to actually participate in decision-making. I will not mention the Mayfield development, which was approved two weeks before the public consultation finished. Regardless of the merits of the development, it is an outrageous process, and that was using interim operation.

I will just mention another issue. I did approach one of the table staff earlier because I was paying attention to documents tabled and there was a document tabled yesterday in this place, which most people would have not paid any attention to, but it was actually a rezoning. The reason it was

tabled in parliament was that it is a rezoning that comes into effect with interim operation. In other words, it is one of those 'shoot first, ask questions later' rezonings. You rezone first and then you have the public consultation.

I am not going to make any observation about the merits or otherwise of this one, but it was Mount Gambier. It is basically an area of residential land which is owned by a timber company, and the timber company I think has run out of space to store their timber. They basically said, 'Well, we own these residential blocks'—it is surrounded by houses, but anyway—'that might be where we should store our timber.' So they have gone to the government and said, 'Can we rezone this area of land from residential to timber storage zone?', or words to that effect—

The Hon. D.W. Ridgway: Did they pay for the cost of rezoning?

The Hon. M.C. PARNELL: The Hon. David Ridgway asks whether they paid the cost. I do not know. You would expect so, if it was for the pure benefit of one company. I make no criticism of whether it is a good idea or a bad idea. It might be an excellent idea. This company is employing a lot of people. Apparently it is one of the bigger companies in the South-East. However, it strikes me as lazy planning, the fact that the government has left it to such a late stage that they have to use emergency rezoning powers, if you like, rather than going through the normal, proper process, and taking their time and doing it properly.

It may well be that there are pressing reasons. Maybe no-one could foresee this problem emerging and there were no temporary approvals that could have been given—I do not know. There might be a back story to it. What strikes me is that the government is continuing to use interim operation, or what we call early commencement, as a way of saying yes to their favoured projects when, as we all know, this provision was designed to stop unsuitable projects.

In fact, I have referred here in the past to the planning circular. Dr Don Hopgood in 1988 basically put this circular out, aimed at councils and developers, saying, 'Please note that these provisions are not designed to fast track your project. They are designed to do things like protect the status quo until after the community consultation has happened, and then the change can come into effect.'

I do not need to go on about it too much more, especially if parties have not changed their position from when the Legislative Council last supported it, but what I asked parliamentary counsel to do was to reprise the amendments that I drafted last time and to incorporate them into the current clause 74. So really this is a matter that the Legislative Council has supported in the past and I am hoping that it will support it again.

The Hon. K.J. MAHER: I rise to indicate that the government will not be supporting these amendments. These three amendments, amendments Nos 48 to 50 [Parnell-1], moved to this clause would constrain the use of what is currently called interim operation. The government opposes this constraint on existing practice. I note that the Hon. Mark Parnell has given some examples of where the current practice, in his view, does not work as well as he would like to see, but it is also worth noting the expert panel's findings in this regard.

For the period 2005 to 2013, interim operation provisions were used as follows: 34 per cent of the time to protect heritage items 14 per cent of the time to protect coastal land and two-thirds of the time for council-initiated amendments. Under current operations, I would hate to see something that would dilute the power to protect heritage items and coastal land. The government will not be supporting these amendments.

I also note that clause 74(4)(b) provides that, if either house of parliament passes a resolution disallowing the amendment after copies of the amendment have been laid before both houses of parliament under section 71, it ceases to operate. So there are very thorough safeguards in place and we oppose restraint on existing practice.

The Hon. M.C. PARNELL: If I can quickly respond to what the minister said. The examples that he cited of where interim operation has been used—

The Hon. K.J. Maher: The expert panel's findings.

The Hon. M.C. PARNELL: Well, the expert panel as well. The expert panel, I think, did the analysis. They worked out where this—

The Hon. K.J. Maher: It's not just me saying it.

The Hon. M.C. PARNELL: No, sorry. The expert panel has identified where interim operation has been used and, I have to say, in most cases it was absolutely appropriate. In fact, that is my whole point: that it should be used to protect the coast and it should be used to protect heritage, while you are having a debate about whether the heritage needs protecting. The heritage example is a good one. If you go through the normal process and you put out a planning and design code saying, 'We are thinking of listing these three properties as heritage,' and then go into consultation, I can tell you what—for the owners of those properties who might not be happy, the bulldozers are out the very next day and they knock them down, and then by the time the planning change has gone through there is actually nothing left to protect.

Interim operation is used to say that we are immediately going to add this to the list, then we will have consultation, and then at least nothing bad will happen in the interim. It is about the status quo and issues of protection rather than fast-tracking the government's favourite developments. I am assuming that the Liberals have not changed their view from last time, so I expect that this will go through.

The Hon. D.G.E. HOOD: I just have a question for the mover. I accept the Hon. Mr Parnell's arguments, but doesn't the government have a point? His amendment, should it pass and be applied in this bill and should it become an act, when it does could it not be used for exactly that reason, to stop heritage protection, for example? We spoke before about the Prospect DPA; the same situation occurred there. They had an interim order, and it came into effect immediately for the very reasons that the Hon. Mr Parnell has outlined. However, should his amendment pass, in exactly that situation could the people who are not supportive of the proposed so-called protections not just bulldoze those houses in the interim? His actual amendment is therefore not achieving his ends, or certainly not in that regard?

The Hon. M.C. PARNELL: It does not work like that. Interim operation works to preserve the status quo. If the status quo is protection then something stays protected: if the status quo is that it is not protected, then it is not. The sort of example that I use is basically if the council, for example—and heritage is probably a bad example because the member and I disagree on it, but I think it is a useful one—has identified that an area is potentially worthy of protection as heritage, if they were simply to go through the normal process, that would have no protection until the change was finally gazetted. In that period of time—which might be six months or might be longer—there would be no protection.

It is a bit like the Heritage Act itself. It has a sort of interim protection order process, and basically just preserves the status quo, the status quo being that the building is still standing. That is the status quo. If it turns out that it does not deserve heritage it will not be put on the list; it will be removed before the list is finally gazetted. As I said, this provision is basically a preventative, protective provision which stops the government abusing it—and that is the word I have used, and I will use it again—abusing it by fast-tracking amendments, in other words, immediately zoning a change to come into effect, immediately allowing applicants to lodge their applications.

That is the other part of this equation. If you lodge a development application, your application is assessed against the planning scheme in existence at the date you lodged it. So if the government changes the planning scheme today and you lodge your development application tomorrow, you are entitled to have your application judged against that scheme. In other words, if you get wind that the government is thinking about heritage listing then you can get the bulldozers in and knock all your heritage down before it can be listed.

What the government does, quite reasonably, is say, 'We are going to add this property to the list, we're going to bring it in on interim operation. We will have the consultation in the community, and if it survives the consultation then at least we have stopped them knocking it down. If it does not survive the consultation they can knock it down.'

The Hon. D.G.E. HOOD: I will be brief. I do not like to challenge the honourable member's knowledge in this area—which is considerable, and I think we all respect it—but that is certainly not

my experience, I have to say. To use the Prospect example again, what happened there was that the interim development assessment was brought in immediately throughout the affected heritage zone, as it is so-called, and from that moment on it was in operation.

The Hon. M.C. Parnell interjecting:

The Hon. D.G.E. HOOD: Correct—

The Hon. K.J. Maher: It changed the status quo, though—

The Hon. D.G.E. HOOD: That is right; it changed the status quo. That is the key point. It was not protected previously. Once it came into the so-called interim operation it was protected (not that I think that is the right word, but that is the word we are using in this context). So it did change the status quo. I think the honourable member has misunderstood—but I do not know if 'misunderstood' is the right word—but I think he has.

The Hon. M.C. Parnell: Yes, I think I did.

The Hon. D.G.E. HOOD: Okay, there you go. I am not sure if the honourable member wants to continue with the amendment or not, but perhaps I will let him respond.

The Hon. M.C. PARNELL: I may have misspoken when I referred to the status quo. Certainly the status changes, that is the whole purpose of the amendment to change the status, but what I meant as the status quo is that the building stays—the status quo on the ground is what I meant. I think I possibly said the status changes. No, the status changes but what is protected is the fact that it is still there.

The actual words that are used in here are 'undesirable development'. It sounds very value laden but regardless of whether you like it or not it is a specific term, a legal drafting term. 'Undesirable development' means development that would detract from or negate an object of the amendment. In other words, if the object of the amendment is to protect heritage, then knocking it down would negate from that and, therefore, that is what this interim operation is designed to do, prevent undesirable development.

The flipside of the coin is it must not be used and should not be used to fast-track developments that should go through the normal process. There was no rationale for fast-tracking the Mayfield development. My colleague Tammy Franks and I were chatting before and we are uncertain about whether that development, having been fast-tracked, is even going ahead now. It may well be that there were no buyers or it has fallen in a hole or whatever.

The government's rationale for fast-tracking development—in other words, for changing the zoning immediately, allowing development applications to be lodged immediately—was ostensibly to get more cranes on the skyline immediately. It did not work anyway. All it did was annoy the entire community, who found that they were disrespected in that they were still participating in public meetings and the thing had already been approved which is just nonsensical. When I say that the planning system is brought into disrepute, that is why that is such a classic example.

The Hon. K.J. MAHER: I think it is the case that limiting this provision, that is clause 74, at a statutory level as it is being proposed by the honourable member, could possibly inhibit some of the valid reasons that we have talked about to some degree. My suggestion is that a better approach could be to address the issue of how interim operations interact with the engagement through the charter. I can let the honourable member know that the government will give an undertaking to pursue this issue as we develop the charter and prepare for implementation.

The honourable member might have some comment as to whether he sees clause 74(4)(b) as providing appropriate protection. In the honourable member's view, if there is some evil that needs undoing with an interim operation, either house of parliament can pass a resolution. That is a pretty big protection that is in place. It is more than what we have talked about before; that is, a minister in the Westminster system facing the wrath of the voters if they do something that is wholly unacceptable. This is either house of parliament that can pass a resolution.

The Hon. M.C. PARNELL: I will address that point directly, and the answer is it does not satisfy me. I can always find examples. I said before that interim operation—or early commencement

as we now call it—effectively means that the minute the government signs off on it and puts it in the *Government Gazette*, it comes into operation. That means that the very same day, or the very next day, people can start lodging applications which will be assessed against it.

Yes, there is a provision here. In fact, it reminded me why that document was tabled yesterday, why that Mount Gambier development plan amendment was tabled, because I am presuming there is a similar provision under the current Development Act, which has never been used to my knowledge, but presumably any of us could try to disallow it.

My experience is that the government works closely with the developers and the developers know this is coming. In my experience, they lodge their applications the next day, so there is no time for parliamentary disallowance. I can recall in the ERD Committee there was an interim operation that came in and I asked Mr Greer, I think—and I do not want to get him into trouble if it was not him—but it was certainly a senior official from the planning department to whom I asked the question: has anyone taken advantage of this DPA by lodging development applications?

The answer was yes. I said, 'How many?' I think the answer was about two dozen. It was to do with aquaculture.

I phrased the question differently, 'To put it another way, is there anyone on the planet who could possibly take advantage of this change in zoning who hasn't yet done so?' The response came back, 'No, I think we've got them all in by now.' Within 48 hours, everyone who could take advantage of the interim operation had taken advantage of it. It was an ancient old aquaculture issue. It is not so relevant now. It was down near Port Lincoln.

My point is that the nature of these things is that 'interim operations' means that they are in there with their applications the very next day, and sometimes there are dozens of them in there within a day or so. I should say that it is not retrospective. If parliament throws it out, the law is still as it was in existence when they lodged their applications so it does not matter if we chuck it out. They are entitled to have their application judged against the interim plan. I am glad the minister raised that because it actually makes it worse: it actually gives me no comfort at all that that sort of protection would be afforded.

The Hon. D.G.E. HOOD: I am sorry to labour this point. I appreciate the Hon. Mr Parnell's arguments, and I think he has a strong case if you subscribe to that view. What I am still not clear about is this. In the case of the heritage interim operation—for instance, again going back to the Prospect example—should his amendment pass, could that not work against his very objective in passing this amendment in the case of preserving so-called heritage?

The Hon. K.J. Maher: Or coastal protection.

The Hon. D.G.E. HOOD: Or coastal protection

The Hon. M.C. PARNELL: The answer is no. They usually do it with character preservation zones—they bring the change in under interim operation, so all of a sudden there is a new set of laws around a certain area, and those new rules say, 'It's now heritage. You can't just bulldoze it.'

The Hon. D.G.E. Hood: You can't do anything.

The Hon. M.C. PARNELL: Well, you can't just bulldoze it. Quite rightly, the government then has to go through public consultation and talk to people. As we have seen, the result of that consultation is that the 80-plus properties that were going to be listed were shrunk down to 20. The only harm I can see that might have been done is that there was a short period when there were 60-something properties that did not know whether they were going to be in or out. I think that is a fairly small price to pay, that there is that small level of uncertainty for a small period of time, compared to the evil we are trying to overcome—that is, wholesale destruction of heritage.

The way interim operation works appropriately, I think works well, and I would be loath to get rid of interim operation or early commencement. We have to have it. It is a really important protective measure. I do not want to see it abused. Again, rezoning the city for high-rise developments may well be an excellent outcome, but you do it through the proper process. You do not do it overnight through interim operation so that approvals get granted before the community has had their chance

to have a say. That is undemocratic and that is what I call an abuse of these provisions—and that is what I am trying to overcome.

The Hon. D.G.E. HOOD: I have enjoyed the debate. We will not be supporting the amendment.

The Hon. K.J. MAHER: I guess this is possibly the last contribution from the government on this. I understand what the honourable member is saying—the bits he likes and wants to keep (that is, the protection of things like protected heritage areas and protected coastal land) to have interim operations allowed to apply to them. I know he has given examples where he thinks it is not a genuine reason but, if there were genuine reasons where an interim operation should come into effect to allow a development that needed to proceed, it would be very hard to do that.

Part of the objects of this act is to allow better and easier development, and I think it should apply equally to the things that the honourable member is in favour of and likes as well as the things that many other members have spoken about in terms of making sure development happens appropriately and expediently when there is an opportunity.

The Hon. M.C. PARNELL: Again, I think we are wearing the patience of the chamber, but I am saying that this is a tool fit for purpose and it has been abused. It is not just about the developments that the Greens like or do not like: it is about the appropriateness of the tool. The tool was developed decades ago. It has been acknowledged by a previous planning minister that it was for a certain purpose and should not be abused. It has been abused.

The minister earlier put on the record maybe an olive branch saying, 'Could we not vote for this now? Can we have a look at how we can engage with the charter, or can we do something else'? I do not accept that at this stage. I think that the Legislative Council, having debated and passed this before, should pass it again. I certainly will participate in these discussions with the government about whether there is another way to achieve it.

I should say that when we did these a year or two ago it had the support of the planning profession, people who realised that I was trying to get this tool back to its proper use and to try to prevent its abuse.

The Hon. D.W. RIDGWAY: I will make some comments in relation to this. It is interesting listening to the debate. My recollection of the provision is that it was to stop people from profiteering from a rezoning or something where they might hear about it and go and buy the land. So, if something was rezoned it happened very quickly. The Hon. Mark Parnell talked about consultation before it came into full effect.

The issue that really prompted the opposition to support this a couple of years ago flies in the face of exactly what the Hon. Mark Parnell was saying, and that was that these interim measures are meant to preserve the status quo. He clearly did not mention the wind farms DPA, which did not preserve the status quo and allowed a whole bunch of developments to happen for that interim period. That is the reason the opposition is attracted to the Hon. Mark Parnell's amendment.

The government might shake its head, but it was an absolute abuse of the process to allow quite a large number of wind farm development applications to be lodged, none of which as yet has been built. While I am a member of parliament, they probably will not be built. It caused a great deal of angst in the community and quite a lot of concern. It really was an abuse of the process to change the rules—not to put on a handbrake, assess and preserve the status quo but to change them. It was only for a 12-month period. The rules around wind farms did not go quite back to the status quo, but certainly appeal rights and some of the other things were brought back into play.

It is for those reasons that the opposition will support the Hon. Mark Parnell's amendments—because it was an abuse by this current government. I come back to the Hon. John Rau's comment that there will not be another Mount Barker on his watch. He has come up with his version of things that he thinks might stop it. If we do not support the Hon. Mark Parnell's amendments, we can see the same sort of behaviour happening again in the future.

We are certainly very happy to support the amendment, but I hear what the Hon. Mark Parnell said about the government coming up with a better arrangement to deal with that. He is the original

mover, and if he said, 'I have had a look at it. I think we've got a better arrangement,' we would be happy to look at it as well. At this point, we are not prepared not to support his amendment because it keeps it on the table and keeps the issue alive.

Our shadow minister, Steven Griffiths, member for Goyder, has probably been at the forefront of the arm wrestle and tension around wind farm developments in an agricultural area, more so than any other member of parliament. He has had a particularly difficult time, wanting development but also making sure that his farming communities have the protections in place that they deserve.

That is why we are very keen not only to support the amendment but also to work with the government and the mover of the amendment. I am sure that Steven Griffiths, who is probably listening in his office, will be happy to work with the government advisers and planning officials to see whether we can come up with a better arrangement, but tonight we will be very happy to support it because we think it is too important an issue not to keep it on the table.

The Hon. J.A. DARLEY: For the record, I will not be supporting the amendment.

The committee divided on the amendment:

Ayes 10
Noes..... 9
Majority..... 1

AYES

Dawkins, J.S.L.	Franks, T.A.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L.	Parnell, M.C. (teller)
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES

Brokenshire, R.L.	Darley, J.A.	Gago, G.E.
Gazzola, J.M.	Hood, D.G.E.	Hunter, I.K.
Kandelaars, G.A.	Maher, K.J. (teller)	Ngo, T.T.

PAIRS

Lensink, J.M.A.	Malinauskas, P.

Amendment thus carried.

Progress reported; committee to sit again.

HEALTH AND COMMUNITY SERVICES COMPLAINTS (BUDGET REPORT) AMENDMENT BILL

Second Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (17:11): I move:

That this bill be now read a second time.

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

Leave granted.

Today I introduce a Bill to amend the *Health and Community Services Complaints Act 2004*.

Currently, section 15 of the Act states that the Health and Community Services Complaints Commissioner's proposed budget for a particular financial year is to be submitted for examination by the Economic and Finance Committee of the Parliament by the end of the preceding calendar year. This requirement is unique to the Commissioner as no other statutory office has a similar requirement.

The Economic and Finance Committee has recommended the Social Development Committee as a more appropriate committee to review the Commissioner's proposed budget as the current requirement is not consistent with the spirit of the Committee's functions. The Social Development Committee has indicated that reviewing the Commissioner's budget is not consistent with their functions.

There is no other parliamentary committee which is appropriate for reviewing the Commissioner's budget and although this provision has been in the Act for more than 10 years it is not necessary for the future. It is specific to the Commissioner and it is therefore proposed to remove section 15 from the Act.

In the absence of section 15 of the Act, the Commissioner is still required to table an annual report in Parliament and to meet normal accountability requirements. Removing this provision will not diminish accountability and I seek the support of all members in repealing section 15.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides the short title of the Bill, as the *Health and Community Services Complaints (Budget Report) Amendment Act 2015*.

2—Amendment provisions

This clause provides that a provision in the measure under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Health and Community Services Complaints Act 2004*

3—Repeal of section 15

This clause deletes section 15 of the *Health and Community Services Complaints Act 2004*. That section currently requires the proposed budget of the Health and Community Services Complaints Commissioner for a particular financial year to be submitted for examination by the Economic and Finance Committee of the Parliament by the end of the preceding calendar year.

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

FAMILY RELATIONSHIPS (PARENTAGE PRESUMPTIONS) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

New Schedule, page 3, before line 13—Insert:

Schedule A1—Related amendment to Births, Deaths and Marriages Registration Act 1996

1—Amendment of section 14—How to have the birth of a child registered

Section 14—-after its present contents (now to be designated as subsection (1)) insert:

(2) The birth registration statement must include particulars of the identity (if known) of the biological parents of the child.

(3) The fact that a person is described as a biological parent of a child in a birth registration statement in accordance with subsection (2), or in an entry about the birth in the Register—

(a) does not constitute an acknowledgement of parentage for the purposes of the *Family Relationships Act 1975* or any other law; and

(b) does not otherwise operate to make that person the mother or father of the child for the purposes of any other law.

(4) In this section—

biological parents, in relation to the birth of a child, means—

(a) the person who provided semen resulting in the birth; and

(b) the person who provided the ovum resulting in the birth.

(5) Subsections (2), (3) and (4) expire on the day on which the donor conception register is established under section 15 of the *Assisted Reproductive Treatment Act 1988*.

Amendment No 2 Long title—

After *'Family Relationships Act 1975'* insert:

; and to make a related amendment to the *Births, Deaths and Marriages Registration Act 1996*

SURVEILLANCE DEVICES BILL

Final Stages

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

At 17:14 the council adjourned until Tuesday 23 February 2016 at 14:15.