LEGISLATIVE COUNCIL

Wednesday, 9 March 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, question time, statements on matters of interest, notices of motion and orders of the day, private business, to be taken into consideration at 2.15pm.

Motion carried.

Bills

LOCAL GOVERNMENT (STORMWATER MANAGEMENT AGREEMENT) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 10 February 2016.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:02): I rise on behalf of the opposition to speak to the Local Government (Stormwater Management Agreement) Amendment Bill 2015. The bill implements the state and local governments' Stormwater Management Agreement of 2013. The Local Government Association entered into a memorandum of agreement on stormwater management on 14 March 2006. Things move slowly: the MOU is from 2006 and now, 10 years later in March 2010, we have this bill before us.

The agreement sets out the first responsibilities for stormwater management, addressing responsibilities for stormwater management and providing the basis for joint collaboration by both levels of government to deal with the threat of flooding and to better manage the use of stormwater as a resource. As part of the agreement, the government provided $4 million per annum, indexed over 30 years, and the Local Government Act 1999 was amended in 2007 to represent this commitment.

In 2011, the government released the stormwater strategy entitled 'The future of stormwater management'. One of the key recommendations arising from the strategy was to establish a new operational model for the authority by giving it a more strategic outlook. This was the basis on which the state and the Local Government Association entered into the Stormwater Management Agreement in 2013. These agreements require the authority to develop a 10-year strategic plan.

The first plan was released in December 2015, with business plans to be prepared every three years. They include refinements to the governance and the operation of the authority, including the composition and the procedures of the authority. This includes an emphasis on members' skills as a primary consideration, while retaining an equal number of local government-nominated and state government-nominated members.

I do remember that the Hon. Nick Bolkus, Labor senator, was on one of the early stormwater authorities. It is interesting that it mentions an emphasis on the members' skills as a primary consideration. I am not sure of his skills in stormwater management when he was on that authority; however, I believe he is no longer there. This change also means that members nominated by local government no longer need to be representative of a particular geographic area. According to the government, this change will ease pressures as many areas struggle to nominate a suitable member. However, this change will potentially result in no regional representation on the authority.

Members will note that the opposition has already filed a couple of amendments to the bill in consultation with the LGA. We want to ensure that at least one local government representative is on the authority and that that person will be nominated by the LGA and have qualifications or experience to represent the interests of a region of local government. So I clarify that this appointment would be based on qualifications and experience and not on employment status, and the appropriateness of those qualifications and experience would be determined by the LGA and be made publicly available. Members would be aware that I have an amendment that has been filed in my name to that effect.

I will not prolong the debate any further. We support the bill. We support the establishment of this stormwater management agreement, but I would very much like to encourage members to support the amendment when we get to the committee stage of the bill.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (11:05): If there are no further contributions, I would like to thank honourable members for their contributions and their indications of support and look forward to the timely passage of this legislation.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Amendment No 1 [Ridgway–1]—

Page 7, lines 5 to 7 [clause 4, inserted clause 7(3)]—Delete '(and the qualifications or experience of appointed members of the board must be made publicly available in a manner determined by the board)'

Amendment No 2 [Ridgway–1]—

Page 7, after line 7 [clause 4, inserted clause 7]—After subclause (3) insert:

(3a) At least 1 of the members appointed on the nomination of the LGA must be a person who, in the opinion of the LGA, has appropriate qualifications or experience to represent the interests of regional local government.

(3b) The qualifications or experience of appointed members of the board must be made publicly available in a manner determined by the board.

As I indicated in my reasonably brief second reading contribution, the opposition is moving these two amendments to have at least one LGA person be appointed to the authority. Members would know I live in the Mitcham council. There has been a significant amount of debate around stormwater mitigation in that council area, around Brownhill Creek and the dam, with the 'no dam' people and the widening of the creek.

That particular creek flows down into the City of West Torrens. There has been huge interaction with local government since 2006 when the agreement between local government and state government was signed. From our point of view, it makes sense to have at least one person from the LGA, nominated by the LGA, to sit on that authority. It just does not make any sense at all, given the local floodwater and stormwater management agreement between local government and state government, that there is potential for nobody from local government to be on there. It just does not make sense to us and we strongly urge members to support the amendment.

The Hon. I.K. HUNTER: The arrangements for the nomination of members for the board of the Stormwater Management Authority as detailed in clause 7 of the bill were driven, I am advised, by the Local Government Association to ensure that the Stormwater Management Authority has skills-based membership and not be constrained by geographic representation. That was driven by the LGA. Members of the council should note that the Stormwater Management Authority will continue to have a statewide focus regardless of the amendment that has been proposed by the Leader of the Opposition.

As part of its strategic plan, a key aspect of this legislation is that the Stormwater Management Authority has identified a number of priority catchments across the state that it will be directing its efforts towards over the next three years. Of the nine high-priority catchments identified, three are in regional South Australia, with these being, I am advised, in Clare, Renmark and Port Augusta.

The Stormwater Management Authority's listing of priority catchments is available, I am told, from the Local Government Association's website. I am advised that the Stormwater Management Authority has already started contacting the relevant councils to initiate work on stormwater management plans for these areas.

For these reasons, I think the amendment proposed by the Hon. David Ridgway is probably unnecessary given the way the LGA has to behave anyway. Given its functions and the way it is made up, I would be very surprised if a variety of interests are not represented in their nomination process. I take the point: the honourable member says there is the potential that nobody from a regional area could be nominated, but I think that would be highly unlikely. Nonetheless, whilst I think it is not ideal, I have no real problems with the amendments. I do not think it does any work whatsoever and therefore will not cause us any problems.

Amendments carried; clause as amended passed.

Title.

The Hon. D.W. RIDGWAY: Can the minister explain to us what the remuneration will be for the chair and the members of the authority?

The Hon. I.K. HUNTER: My advice is that we are not proposing any change to the current remuneration, but I am just checking with my adviser to see if we have that information at hand right now.

The Hon. D.W. RIDGWAY: While the adviser is looking for that information, will all the members of the authority be required to have expertise and understanding in stormwater management or will it only be the members and you will have an independent chair who may not have that expertise?

The Hon. I.K. HUNTER: My advice is that we are moving to a skills-based board. A number of skills and experience will be required for the proper administration of the board, and they will be set out by the board at some stage. Again, there is not a great deal of difference, except that we are moving away from a representational structure to a skills-based one. What are those skill sets, and does every member need to have exactly the same set of skills? Probably not.

Some skill sets will need to be administrative, some will need to be in stormwater, some will need to be in local government, for example, but it will be a skills-based board rather than a representational one. Rather than waste the council's time, I might take that question on notice and bring back the remuneration schedule for the honourable member.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (11:12): I move:

That this bill be now read a third time.

Bill read a third time and passed.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Committee Stage

In committee.

(Continued from 8 March 2016.)

Clause 156.

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

Amendment No 58 [Emp–4]—

Page 135, line 17—Delete paragraph (a)

A range of questions was being debated when we left off yesterday. I will answer very broadly some of the questions that were raised during that debate. In doing so, I will speak broadly and specifically about some of the questions.

Yesterday, quite a number of questions were raised about infrastructure schemes. I think some of these answers will aid with progressing the debate. However, based on the course of the debate and questions raised, I will firstly provide that overview as briefly as possible about how these schemes are intended to work, broadly rather than examining the minutiae about each of them in isolation.

Currently, we have the Development Act which has been in place for many decades. When it was set up, government was virtually wholly responsible for providing infrastructure. Since then, the world has moved on. The Planning, Development and Infrastructure Bill is designed to enable government to plan strategically and ensure that development and infrastructure decisions are not made in isolation. When the government considers rezoning broadacre land—it makes the planning decision—we do not want to agree to that until such time as we can ensure the infrastructure can be funded and it is appropriate to the development proposed.

These provisions formalise that arrangement which occurs now informally by negotiation of individual agreements. In terms of the schemes themselves, the basic or general infrastructure schemes and any associated funding arrangements may be initiated by the minister at his own initiative or on the request of another person, such as a developer or developers, but only after seeking advice of the commission.

The specific purposes for which the general scheme may be initiated are set out in the bill and the minister does this by preparing in consultation with the landowners, prospective developers and effective councils, a draft outline. The outline includes details of the nature, intended scope and proposed timing of delivery of the infrastructure and any other related development, the location, the body that will carry out the work and, if a funding arrangement includes a proposal for a collection of contributions, the contribution area proposed.

In setting out a scheme, the minister must facilitate the provision of infrastructure that is fit for purpose, designed to be built to an appropriate standard—that is, as we discussed yesterday, not gold plated—and be capable of timely delivery. The minister must also consider proposals to collect contribution from landowners by taking into account whether it is reasonable to use other sources of funding, the impact of any scheme on affected councils, the extent of benefits to contributors, any arrangements already in place within the designated growth area, and consulting affected councils and any landowners impacted.

Only then may the minister publish the draft outline of a scheme with any advice furnished by the committee. At this point, the minister will ask the chief executive of DPTI to appoint a scheme coordinator who will prepare, scope and cost the scheme in accordance with any relevant design standards. Among the functions, the scheme coordinator will also develop a work plan, consult in accordance with the community engagement charter and, if applicable, advance the funding arrangements.

The coordinator can be a person from either the private or public sector, a committee or a precinct authority and may only be appointed or removed by the chief executive if the state planning commission concurs. The coordinator is bound by an enforceable code of conduct and guided by the principles set out in part 13. An important role of the scheme coordinator, included at the suggestion of industry, is to advise the minister on enforcement of any charges and on contribution levels. They must also keep the chief executive of DPTI informed of additional or alternative funding sources which should be used to keep charges and contributions as low as possible.

If the minister decides to proceed with the scheme, the report provided by the scheme coordinator must be published in the *Gazette* and on the planning portal. Any commercial, in-confidence or other information protected pursuant to section 53 will be redacted prior to publication.

In terms of funding arrangements, funding for a basic infrastructure scheme consists of a charge on the land within a contribution area. The scheme may provide for an adjustment or indexation and arrangements for periodic review as determined by ESCOSA or another prescribed body or person. The funding arrangements for both infrastructure schemes may consist of publicly or privately sourced funding, including Treasurer's guarantees, exemptions from specified state taxes or levies, imposition of a charge in the basic infrastructure schemes, or the collection of contributions from a contribution area for the general scheme.

A scheme for rebates or the adjustment of contributions, including according to a determination of ESCOSA or the like, and a scheme for in-kind contributions may also be included. To come into effect, any funding arrangement or variation must be approved by the Governor by notice in the *Gazette* and published on the portal.

In the case of general infrastructure schemes, the *Gazette* notice can only be published if the minister has made a recommendation to the government after a report from the state planning commission and sets out the results of consultations with infrastructure providers, prospective developers, the LGA, relevant councils and non-specified persons or bodies as have been received by the minister and states that the commission is satisfied that the funding arrangements are fair, equitable and consistent with the principles set out in clauses 156(5) and 158(2) and has considered the impacts and the desired effects of contribution charges.

Most importantly, the funding arrangement must also have been approved by 100 cent of private (that is, non-government) landowners within the contribution area. The minister's report on the funding arrangement must be furnished to the Environment, Resources and Development Committee and, subject to the committee's views, may be subject to disallowance by parliament via the usual mechanisms.

Specifically in relation to issues that were raised by the Leader of the Opposition, I am advised that there are no speaking notes available from minister Mullighan's speech to the UDIA in response to questions that he raised yesterday. However, I am advised that the minister's office has provided a summary of the contents. I am informed that minister Mullighan only touched on the concept set of value capture in its broader sense in terms of recognising that the provision of public transport does provide an uplift to values of nearby land and that governments broadly are looking at mechanisms to capture that uplift and help fund such infrastructure.

On reflection, it appears that minister Mullighan may have been talking generally about how councils work out rates based on the values of property. That is completely and entirely separate to the planning system and these proposed infrastructure schemes. This bill puts forward two possible approaches of various possibilities to value capture.

I would like to draw the attention of members to the fact that councils, if they wish, are already able to contribute by whatever means, including rates on land, towards any infrastructure in conjunction with private investors and state government if this meets the council's strategic goal for their local area. Clause 155(9) requires that, in proposing to impose a charge, the minister must consider any other schemes or funding arrangements already in place, including existing council rating arrangements.

In terms of some issues that were referred to in mining referrals, the Hon. Mark Parnell put questions as to how many mining applications are referred to the planning minister each year, or totally. I am advised that this affects around 10 to 15 applications each year, on average. Also, I am advised that schedule 20 of the current Development Act 2003 sets out geographical areas, for example the Flinders Ranges, for which referral is required.

As previously advised, there is no plan to depart from the existing approach in the implementation of this bill. I also note questions from the Leader of the Opposition in relation to mining and wish to clarify that there is a proposed review of these provisions in relation to mining, as opposed to heritage. Sorry, it is proposed to review the operation of heritage, as opposed to mining.

I think I said mining and heritage. I think it should have been limited just to heritage and not mining. I think I had a comma in the wrong place. I want to make it clear on the record that future reviews apply to heritage and not mining. While the heritage provisions of the bill are anticipated to undergo a review separately, I am advised that there is no plan to review the provisions in the mining bill at present.

Finally, I wish to emphasise that the government has gained the support of the UDIA and the PCA for these infrastructure scheme provisions. These two peak bodies represent land developers who are used to negotiating infrastructure agreements as part of the normal development process and support the use of basic infrastructure schemes to remove, in their words, the historic gridlock associated with reaching such agreements.

The Leader of the Opposition raised the views of the HIA. While both the HIA and the MBA have critical roles in the delivery of housing, such organisations have not been traditionally focused on the division of land and have not traditionally been as intensively involved in the negotiation of infrastructure agreements. It is not envisaged that the schemes in part 13 will apply to small-scale infill developments or minor subdivision.

In most circumstances an organisation such as the HIA would be able to continue to negotiate individual agreements if they so desired. The intent of these schemes is to provide additional, transparent mechanisms for broadacre and major infill developers such as UDIA and PCA members and state and local governments to negotiate, particularly where a large number of landowners are involved. In reality, all the basic scheme does is to formalise current practices and provide greater certainty, transparency and equity.

In relation to the amendment itself and the discussion on that, clause 156(6)(b) enables landowners who are not within a designated growth area associated with a basic scheme to be subject to a contribution charge for the cost of infrastructure that would normally be the subject of a basic infrastructure scheme where they would derive a benefit from it and it is the subject of a general infrastructure scheme. A contribution area is defined in clause 156(4)(f) under a scheme initiated by the minister, which would specify the contribution area for a general infrastructure scheme.

Who determines the contribution area was, I think, raised: the minister, on the advice of the commission under section 156(3)(a), as has been amended. How is it used? Clause 156(6)(b) will allow landowners within a general infrastructure contribution area to be liable for basic infrastructure which would normally be funded through a basic infrastructure scheme but, in this case, is being funded through a general scheme. Subclause (6)(b) enables people in a contribution area to contribute towards the cost of basic infrastructure even if they are not in a designated growth area.

It has been useful in this debate to demonstrate, by way of example, the operation of these things. So let us say that an area within Onkaparinga council is being rezoned and new infrastructure is being provided to enable broadacre development. Adjoining landowners across the main road from the development are also keen to take advantage of the new infrastructure and the uplift likely to occur, but there is no easy mechanism for that under the current system. If you need to provide a new road to uplift a rezoned area, the nearby areas could also voluntarily agree to contribute if, in their view, they would also benefit from the new road by better access and all the things that a new road brings.

Alternatively, if there is potential for a new development to address stormwater drains in an existing neighbouring area that is not in a designated growth area, the landowners in the existing area may volunteer to be in the contribution area and contribute to a scheme in the new development that would address existing landowners' concerns. A contribution would likely be far cheaper than paying to raise the floor level of a house, in this example, and would likely present a better deal for the landowners concerned.

Without clause 156(6)(b), the developers of a new suburb would bear all the costs of infrastructure, but neighbouring beneficiaries could not choose to do so. This allows for the cost of infrastructure to be fairly spread across all those who benefit, as made clear in clause 156(6). It is worth noting that any such funding arrangement that proposes the imposition of a charge or contribution will, as with general infrastructure schemes, be subject to the requirement for 100 per cent agreement as well as parliamentary scrutiny and potential disallowance.

The Hon. D.W. RIDGWAY: I will start with that response. The minister talked there about landowners outside the area who would get a benefit and were subject to a general scheme. He said they could voluntarily make a contribution. I do not know what sort of fairy tale he is living in, but I cannot imagine that anyone is going to say, 'We've got a new freeway interchange and I don't have to pay for it, but I will offer a contribution.' In a general scheme don't we have to have 100 per cent agreement? On one hand you say that if they like they can make a contribution but that we also need 100 per cent agreement. That does not make sense to me.

The Hon. K.J. MAHER: In the example about stormwater, if you are not in that area but you are concerned about flooding, rather than raising the level of your house, or the floor level, you might get 100 per cent agreement from neighbouring landowners so that pipes can be bigger so that you can tap into that scheme, for example. It is voluntary and you are absolutely right: as part of the general scheme it would require 100 per cent agreement.

The Hon. D.W. RIDGWAY: Surely, if there was a new subdivision that was going to cause my property to be inundated because there was to be flooding, it would be the responsibility of government to make sure that I do not get put under water.

The Hon. K.J. MAHER: I am not referring to the consequence of the new development, but there are areas more prone to flooding than other areas in the state, so it would be something that was pre-existing that you want to mitigate against, and what you put up with regardless of the development that is happening across the road or away from you.

The Hon. D.W. RIDGWAY: My understanding of it is that the way it is worded a landowner derives a benefit, so you are saying that they would make a voluntary contribution, but they would only get a benefit if the pipe, in this example you give, is big enough to make sure that their property is not inundated. They are not going to be consulted on the infrastructure because they are outside of the scheme.

The Hon. K.J. MAHER: The minister can consult any body or person that they wish to consult. It might be that they could consult with others further afield to seek their views and, if there was 100 per cent agreement, contributions could be made.

The Hon. D.W. RIDGWAY: But what portion? I cannot understand this concept of 'on the one hand it is voluntary, on the other hand we need 100 per cent agreement'. Obviously, you would have to agree on a contribution value. I have had parliamentary counsel give me an explanation as well (not that I did not have faith in the minister's explanation), but the explanation was that often people start a new settlement, pay the majority of the infrastructure costs and people who move into the area later piggyback off the back of that investment.

They gave me a scenario: three farms alongside each other identified for subdivision and are made a designated growth area. Under subdivision A2, those farmers contribute to the initial development of a road. Some years later the development expands into a township, and a bunch of general infrastructure is built, with new subdivision 3 contribution area. That expansion is not part of the original designated growth area, but it may be appropriate for new developers to contribute to the basic infrastructure under that initial scheme, that is, they do not live in the original designated area but are part of an associated scheme.

I still cannot work out when you say that they have to pay. You are saying that on one hand it can be voluntary. I do not know what world you are living in, but I do not know anybody who will make a contribution to some infrastructure if they do not have to, because it will not be 50¢ but will be tens of thousands of dollars. I just do not understand your concept of voluntary.

The Hon. K.J. MAHER: I take the point that, if you have very large numbers, the more people involved the more difficult it will be to come to an agreement. Let us say that on one side of the road there is a basic scheme, with stormwater going in, and on the other side of the road there is one landowner who potentially could benefit greatly if they were part of that scheme. That one landowner agrees, so there is 100 per cent agreement to make a voluntary contribution to allow them to be part of that scheme. That is one example of where this could work.

It is true that the more people it could affect the more difficult it will be to get that 100 per cent agreement that all the people will voluntarily contribute. Certainly, in the case of one landowner who

wishes to take advantage of the basic infrastructure going in across the road, it would be 100 per cent agreement with that one landowner who would seek to derive the benefit by voluntarily becoming part of that scheme.

The Hon. M.C. PARNELL: I appreciate that we are ranging very widely over these infrastructure schemes. I think this means that when we get to individual clauses there may be fewer questions because we have covered most of them now, certainly in my case. I want to explore further what the minister just said in relation to the difficulty of getting 100 per cent of people to agree.

If we fast-forward to the government's amendment No. 85 which effectively is the one that replaces what was going to be a 75 per cent rule, I think the original bill talked about a prescribed percentage that was going to be put in the regs and the talk was around 75 per cent. That is now going to be replaced with a provision that says that all of the persons who own land within the relevant contribution area have to agree, so this is a 100 per cent rule we are talking about.

I accept what the minister is saying, that the larger the pool of people the more difficult it is going to be to get agreement, but something that struck me yesterday—and it is not an issue I have raised with the minister's advisers or anyone because I have only just thought about it—is that most of us have mortgages on our properties. Part of the deal with a mortgage is that you agree with your bank, you sign a sort of contract that says, 'I won't further encumber this land.' That is part of the deal because the bank wants to make sure that it is first in line and it does not want any other encumbrances.

From the answers the minister was giving us yesterday, there will be the possibility for a certificate of title to reflect that some sort of money might be owed in the future, perhaps when a person lodges a subdivision application or something, so it seems to me that there is possibly a risk that a person will be breaching their contract with their bank if they agree to an infrastructure scheme, because they are effectively agreeing to a further charge on their land.

It may be that there is a protection built in here somewhere that I have not seen, but I would not mind the minister's response about whether that is another potential difficulty where, even if only a small number of people have to agree, if they all have mortgages they might feel that they are legally obliged not to agree.

The Hon. K.J. MAHER: I thank the Hon. Mark Parnell for the question that he just asked. We are dealing with general charges, not basic charges, in this clause, but I assume it is a question applying to basic charges particularly. I think the answer to that is in new clause 163D—Enforcement of charge, which we are coming to, and particularly clause 163D(6)(b). This subclause relates to enforcement of charges and money required by a minister in relation to the sale of land under this clause where there is a charge, firstly, in paying the costs of the sale of the land but, secondly, in discharging any liabilities secured by instrument registered before the charge was created. So, yes, the act does contemplate the exact scenario I think the honourable member is referring to.

The Hon. D.W. RIDGWAY: When we recommenced this morning, the minister made statements around, I think, the HIA and the MBA in relation to individual agreements where a developer has a subdivision or where there are two developers. My understanding was that small subdivisions do not actually have to enter into any scheme: they might just be able to agree in the same fashion as agreements are reached now. Is it accurate that they are not compelled to enter into a scheme?

The Hon. K.J. MAHER: For the record, my advice is, yes, that is accurate. In the examples you gave, those small subdivisions are not compelled to have a scheme.

The Hon. D.W. RIDGWAY: I want the minister to explain this again, because he and his adviser have had time to think about it. Yesterday, the minister indicated that, for the basic infrastructure scheme, there could be two scenarios—an up-front charge per hectare, and I will pick a figure of $10,000 per hectare, or an annual payment for an allotment for a period of time paid, I assume, by either the person who holds the allotment or the home owner.

Can the minister reiterate that those two options are still on the table? Certainly the information we were given as an opposition was that the only option that was being considered by

the UDIA and their experts was the up-front per hectare charge, yet yesterday you said there are the two possibilities. I just want to make sure we are clear on exactly what is being proposed.

The Hon. K.J. MAHER: I am advised that, for the basic scheme, a once-off charge is calculated but, with the scheme coordinator in consultation with the landowners, that once-off charge can be paid over a period of time as per any agreement that that consultation comes up with. You are right that it is a once-off charge, but the payment of that once-off charge can be made over a period of time, if that is the desired outcome from the landowners in consultation with the scheme coordinator.

The Hon. D.W. RIDGWAY: Can the minister guarantee that, in a subdivision, a new home owner will not ever be required to pay an annual charge for the infrastructure for the basic scheme?

The Hon. K.J. MAHER: As I said, it would depend on the terms of the scheme. It is a once-off charge, but the scheme coordinator, in consultation with the landowners, can decide if that will be paid off over a period of time.

To add to that, for any such purchaser of a house where the scheme has been set up—so there was that once-off charge—but it has been in consultation with the landowners and the scheme coordinator has determined that that once-off charge can be paid over a period of time, it would be registered against the property so that anyone looking to buy a property would not just buy a property and then be surprised that there are payments to go on that land. It would be registered against the property on the certificate of title.

The Hon. D.W. RIDGWAY: It is interesting because we had an extensive meeting with the UDIA, and their interpretation was that it would be a per hectare charge paid for by the developer. Basically, it would discount the value paid to the farmer and there would not be any charge on an annual basis for any home owner. The key of the whole bill is to try to make sure housing affordability is not impacted on, and in other states we have had developer levies and house blocks have gone up $40,000, $50,000 or $60,000 an allotment extra to pay for infrastructure.

I am concerned that we voted on some amendments last night—the Hon. Mark Parnell, the Hon. Kelly Vincent, the Hon. Tammy Franks and the Hon. John Darley—and yet we have no clarity about what we actually voted on. I want to make it 100 per cent clear that no young couple buying a house will be saddled with an annual payment for infrastructure when we have been told by the UDIA that it was going to come off the landowner's value and not be charged to young families trying to get a start in this state.

The Hon. K.J. MAHER: I do not think that is accurate at all. I think it was very clear yesterday, and that is why you are raising it now in relation to comments made yesterday that it could be paid off over time. I think it is a falsehood to suggest that people were not aware of that when we were voting yesterday. You were aware of it because you have brought it up in relation to the comments yesterday, so I do not think it is at all a fair comment to suggest that others voting on this bill were not aware that that could be paid off over time. That is a misrepresentation of what was said yesterday and the basis on what other people voted on. In terms of a new person buying into a piece of property, it is the case that they will not buy a property without knowing that there is that sort of charge against it. They will know.

The Hon. M.C. PARNELL: The information you have before you buy property comes from a number of sources; one is that you have searched the title and, if there is anything that is on the title, you will find that. But also there is an obligation on real estate agents to give you the Form 1 (it used to be called the vendor's statement), which actually lists things like whether your house is subject to being compulsorily acquired for a freeway expansion or whether it is a contaminated site. There is a whole list of things.

I would have expected that one of the consequential amendments that would probably flow from the passage of this might be amendments to the land and business conveyancing regulations—the Hon. John Darley would know. There may well need to be a specific inclusion of an extra item of information that has to be disclosed to potential purchasers. I would be surprised if it is not already caught under one of the existing obligations to disclose. I do not think there is a doubt that anyone could buy property and not know that these charges were potentially payable.

The Hon. D.W. RIDGWAY: I will just respond to the Hon. Mark Parnell. I am fully aware that landowners will always know what charges they will be expecting to pay. The point I am making is that all the information that was given to the opposition in the last few weeks of negotiation with industry and government was that there would be no ongoing charges on new home owners and that the cost of the infrastructure would be borne by discounting the price for the farmer so he or she got less and the developer would make that contribution.

What I am seeing here now is that if I am a smart developer and this legislation goes through I will get a scheme up and then I will say, 'Actually, I only want to pay it over time, maybe 40 years,' and then a young mum and dad who want to try to get on are going to have to pay for the infrastructure for the next 40 years out of their pocket, when we were told it would be done in a lump sum at the beginning. I think we need some real clarity around that from our point of view because otherwise, with the negotiations we have had from industry, either the government has been pulling the wool over industry's eyes or industry has been pulling it over our eyes.

The Hon. K.J. MAHER: I will not reiterate. I understand your point. People will not go into this with their eyes closed.

The Hon. D.W. Ridgway: It's not about not knowing; it's who pays.

The Hon. K.J. MAHER: People already pay for this effectively in house and land packages. It is much more transparent if it is registered on a government certificate of title. I would expect that in a lot, probably most, cases the developer may choose to pay for it up-front and factor it into the sale price of land. Of course, they will have to sell for a discount if there is a charge on there.

I think in a lot of cases it is unlikely that it will be asked for to be passed on. A developer will want to have the best possible chance of selling for as much as they can. They may choose to negotiate with the scheme coordinator for it to be paid off over time, but this will be known to the market before anyone buys at any stage.

The Hon. D.W. RIDGWAY: I will not prolong it because clearly either I do not understand or the minister does not understand. I think I will go back to industry, and I will have that briefing again and get some clear guidance from them as to whether they think it is an up-front, one-off charge per hectare to the farmer, or whether it is something they can drip feed out to Mr and Mrs Citizen who are trying to buy a house. When we recommit the bill, probably in the next sitting week, or whenever it is, I will explore that in much more detail.

Amendment carried.

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

Amendment No 59 [Emp–4]—

Page 135, after line 27—Insert:

(8a) In addition, the Minister must, as soon as is reasonably practicable after acting under this section on the advice of the Commission, publish the advice on the SA planning portal subject to any qualifications or redactions that apply under section 53 or under a practice direction published by the Commission for the purposes of this provision.

The effect of this amendment is that the minister may only initiate an infrastructure scheme on the advice of the commission. This amendment is consistent with good governance by ensuring that any advice provided to the minister by the commission will be shared transparently with the public and open to scrutiny by way of the planning website. The advice published on the portal will only exclude matters which are confidential, private, commercially valuable or sensitive and relate to safety or security or are prescribed by regulations.

Amendment carried.

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

Amendment No 60 [Emp–4]—

Page 135, after line 29—Insert:

Subdivision 1A—Scheme coordinator

Amendment carried; clause as amended passed.

Clause 157.

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

Amendment No 61 [Emp–4]—

Page 135, line 31—Delete 'section 156' and insert 'section 155B or 156'

This is a consequential amendment.

Amendment carried.

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

Amendment No 62 [Emp–4]—

Page 135, line 32—Delete 'a person' and substitute 'a suitably qualified person'

This amendment has resulted from discussions with industry. It requires that a suitably qualified person be appointed as the scheme coordinator, given the specialist skills which the appointee must possess, the high level at which they will be expected to function and the important outcomes they will be responsible for delivering. This amendment also reflects the importance of this role to the government and to industry.

Amendment carried.

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

Amendment No 63 [Emp–4]—

Page 136, after line 4—Insert:

(5) The Chief Executive must, in exercising a power under this section, act with the concurrence of the Commission.

This amendment has been drafted in response to suggestions which arose from consultations on the bill. This clause will ensure that the chief executive has the benefit of the commission's advice before appointing or replacing a scheme coordinator. If the scheme coordinator is a committee or its composition reflects the nature and complexity of the project, then it could comprise, for example, representatives of council, developers, technical experts, government officials, such as traffic engineers or civil engineers.

Amendment carried; clause as amended passed.

Clause 158.

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

Amendment No 64 [Emp–4]—

Page 136, after line 15—Insert:

(1a) In addition to the other provisions of this Division, in developing a funding arrangement that includes a proposal for the imposition of a charge made under Subdivision 2A, the scheme coordinator should seek to act consistently with the following principles:

(a) the charge should be limited to recovering the reasonable capital costs of the basic infrastructure based only on infrastructure that is not excessive and that is not produced or delivered at a cost or price that is unreasonable in the circumstances;

(b) the charge should not have an excessively adverse impact on—

(i) the development of a designated growth area; or

(ii) housing or living affordability within a designated growth area; or

(iii) employment, investment or economic viability associated with a designated growth area; and

(c) the charge should be based on a scheme under which a payment or payments under the charge become payable (or commence to become payable) on a specified event or events; and

(d) funding under the scheme should recognise the need to provide value for money in connection with funding arrangements including, as appropriate, through contestable provision of basic infrastructure; and

(e) rebates for charges should be available in appropriate circumstances; and

(f) exemptions from the imposition of a charge should be considered depending on the circumstances of the case.

(1b) In connection with subsection (1a)(c), an event or events that trigger the requirement to make, or to begin to make, a payment under a charge should be related to when development is undertaken being (for example)—

(a) the depositing of a plan for the division of land under Part 19AB of the *Real Property Act 1886*; or

(b) undertaking of approved development.

(1c) In addition to subsection (1a)(f), exemptions from the imposition of a charge under Subdivision 2A will apply in any circumstances prescribed by the regulations.

The Hon. D.W. RIDGWAY: I have some questions in relation to clause 158(2)(b) but, more importantly, paragraph (c). I note that paragraph (b) talks about:

…the contributions should not have an excessive impact on—

(i) housing or living affordability within a contribution area; or

(ii) the economic viability of a contribution area;

Just to refresh me (and I may be looking for something that is not there), if you have a farm that you want to subdivide, you have the approval to subdivide but you have to agree on a scheme to make that all happen, I assume. You have to agree on a scheme for the subdivision ever to be able to happen. I am thinking of subclause (2)(b)(ii), the economic viability of the contribution or the housing affordability. Could you get subdivision approval but then find that the scheme is so expensive that nothing can ever happen or it is not viable to go ahead with it?

The Hon. K.J. MAHER: My advice is that under the current system those individual agreements that the industry refers to as 'gridlock' need to be negotiated before the rezoning happens in any event. This makes it a much easier and more transparent way to do it, with a scheme coordinator.

The Hon. D.W. RIDGWAY: I just have a couple of quick questions on paragraph (c). It provides:

(c) funding under the scheme—

(i) may, as appropriate—

(A) seek to attribute costs over the lifetime of the relevant infrastructure (or over some other appropriate period);

Does that mean we are now looking at funding not only the construction of some infrastructure but the maintenance of that bit of infrastructure over its lifetime, whether it is a road, a stormwater drain or a pipeline? I am not sure that that was ever the intent of what the opposition explained. It was for the provision of infrastructure, not necessarily the maintenance over the lifetime of that bit of infrastructure.

The Hon. K.J. MAHER: I am advised that theoretically that would be possible, but theoretically it is also possible under the current scheme of the individual agreements that the industry describes as 'gridlock'. Individual agreements that currently operate before this passes could take into account the costs of maintenance over the life of whatever the infrastructure is. That could happen now. Theoretically it is possible; however, it would be tempered by a clause 158(1a)(b)(ii) that the charge should not have an excessively adverse impact on housing or living affordability within a designated growth area. So, theoretically it could be possible but that does not change the current practice where theoretically it could be possible under the gridlock individual agreements.

The Hon. D.W. RIDGWAY: It is interesting that we are seeking to attribute costs over the lifetime of the relevant infrastructure. We are talking about lifetime, whereas my understanding of the agreements that are in place now, whether they are Swiss cheese or complicated to negotiate, is that you agree on the infrastructure—it is $50 million, 10 developers pay $5 million each, end of story, the infrastructure is built. There is no ongoing 'It's $50 million to build it but, by the way, we need $500,000 a year for the next 100 years to maintain the roads and street lights for the interchange.'

I am concerned that this clause will allow the government to again—and I come back to the first home owners—buy a property that has a charge over it for the provision of infrastructure and say, 'And by the way, you can pay for the maintenance of it forever and a day because it says "over the lifetime".' What is the lifetime of a road? I am just concerned. You say that it is theoretically possible but I am nervous about governments, because if it is theoretically possible then it will probably happen.

The Hon. K.J. MAHER: As I think the honourable member acknowledges, it is possible now to have those costs over a scheme. I repeat that the thing that must be taken into consideration is the housing affordability and also that in clause 158(2)(a) the contributions should be limited to recovering the reasonable capital costs of the scheme, based only on infrastructure that is not excessive and not produced or delivered at a cost price that is unreasonable in the circumstances.

It should also be pointed out, again, that anyone going into the scheme, and particularly people subsequently buying, are not going in blind. The scheme provides for a charge against the certificate of title—and we have talked about this before with the Hon. Mark Parnell—and people will know what they are going into; they not going in blind.

The Hon. D.W. RIDGWAY: The costs over the lifetime of the relevant infrastructure—I will keep pursuing this—the cost to maintain a road today (let us say it is a road), is significantly different to what the cost will be in 50 years' time, when the road needs maintenance. So how is that charge likely to be charged to Mr and Mrs Citizen in the subdivision? What is determined to be 'the lifetime'? I was just chatting with my colleague the Hon. Mark Parnell: if the government has a scheme to maintain the infrastructure, then those people will never get a new road, they will always get the old one being maintained because then it can be continually charged back to the landowners.

It strikes at the issue of this housing affordability that some of the industry people have been really concerned about. This appears to provide a mechanism to levy home owners (because that is where it will eventually be), yet again, over a long period of time. I also assume it will have some level of indexation because it is about costs over the lifetime of the relevant infrastructure. I am just not sure how you can say that this is not going to impact on housing affordability.

The Hon. K.J. MAHER: I think this will be particularly helpful: clause 158(2), the one we are talking about, is in relation to a general scheme, and a general scheme requires 100 per cent agreement. So it is if everyone agrees to that, if there is 100 per cent agreement of those involved. If someone thinks it is completely unreasonable to have that one-off, up-front charge that can be paid off over a number of years, they will not agree to it if they think it is completely unreasonable. Clause 158(2) refers to the general scheme.

The Hon. D.W. RIDGWAY: That is interesting. Let us use a tramline down a road as an example. This clause will allow the government to recover the costs of maintenance, I assume, over the lifetime of a tramline—50, 100, 200 years.

The Hon. K.J. MAHER: If every single person, that is, 100 per cent of people, agree to doing that, and make the rational economic decision that this will provide sufficient uplift in the price of their home to justify doing that, then, yes, that is possible.

The Hon. D.W. RIDGWAY: Subclause (2)(a) states:

> (a) the contributions should be limited to recovering the reasonable capital costs of the scheme based only on infrastructure that is not excessive and that is not produced or delivered at a cost or price that is unreasonable in the circumstances;

Earlier in subclause (2) you say that it should be limited to just covering the reasonable capital costs, and then you are saying that you can seek to contribute costs over the lifetime of the relevant infrastructure. Are you looking to apportion the capital costs over the lifetime of the infrastructure? Is

that what you are meaning by this, or are you saying, 'We are going to seek the capital cost and also we're going to have a charge over the lifetime of the infrastructure'?

The Hon. K.J. MAHER: I think it will be reasonable costs over the lifetime of that infrastructure, if and only if 100 per cent of the people affected agree to it.

The Hon. M.C. PARNELL: To explore this a little bit further, if worst comes to worst and all of a sudden people seem to be lumbered with unreasonable, unfair charges (I guess this is what the Hon. David Ridgway is concerned about), can I just clarify that the two avenues for redress seem to me that, first, you have ESCOSA built in here—presumably you could go and talk to ESCOSA and say, 'Look, this is outrageous, we're paying too much' and, secondly, the other avenue for redress, which I am not so fond of for reasons that I will not elaborate on again, is parliamentary scrutiny—the parliament I think can chuck out one of these schemes as well. Am I correct that they are the two avenues of redress: going to ESCOSA or going to parliament at the start and getting parliament to try to agree that the scheme is unfair?

The Hon. K.J. MAHER: I can confirm that that is correct. The scheme contemplated under this clause, first, can have ESCOSA look at it, but then is subject to the provisions of parliament, as we have discussed before. So, yes, the honourable member and former planning lawyer is absolutely correct.

The Hon. D.W. RIDGWAY: One final question on this: subclause (2)(c) states:

(c) funding under the scheme—

(i) may, as appropriate—

(B) be based on contributions that become payable on a specified event or events;

Could the minister give an example of what is a specified event? Is it an earthquake or a flood? What exactly is he talking about there?

The Hon. K.J. MAHER: Specified events are laid out in clause 158(3) and examples are provided, for example, the division of land, a rezoning or approval or undertaking of a development—they are defined in the act as specified events.

Amendment carried.

Progress reported; committee to sit again.

ABORIGINAL HERITAGE (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 8 March 2016.)

The Hon. T.A. FRANKS (12:15): I rise to continue my remarks to this bill. In my contribution today, I would like to table the time line of events in action brought by Robert John Starkey as plaintiff and appellant as a traditional owner for Lake Torrens. I seek leave to table that document.

Leave granted.

The Hon. T.A. FRANKS: The case involved a decision by the then minister for Aboriginal affairs, Grace Portolesi, to provide authority, under section 23 of the Aboriginal Heritage Act, for Straits Resources as operator on an exploration licence held jointly with Kelaray Pty Ltd to damage, disturb or interfere with Aboriginal heritage—essentially, drill holes on Lake Torrens and Andamooka Island.

Prior to the authorisation, the then minister Portolesi conducted consultation with the traditional owners in Port Augusta, with a group of persons of Kokatha and Adnyamathanha descent. At the meeting, those present passed a motion that they, the traditional owners, be delegated the minister's authority to determine the section 23 application themselves. I am informed that the minister prolonged making a decision in regard to that request until 7 July 2010—the same day, I am informed, that she gave the companies authority to proceed and said that she had not made any decision. I certainly ask for feedback on that information from minister Maher.

I am informed that Robert Starkey, a Kokatha man, brought judicial review proceedings in 2010 to review the decision. Initially, Justice Sulan held that the minister's decision was not contrary to law. Robert Starkey then appealed to the Full Court of the Supreme Court, which determined that the section 23 authorisation was contrary to law and quashed it. The Full Court's reasoning was that the applicants had not been provided with procedural fairness by the then minister concerning the delegation request, and the delegation, if requested, was mandatory under section 6 part 2. An order in the nature of mandamus was made requiring the minister to confer with the applicants concerning the delegation request. That process, of course, has been ongoing since December 2011.

I have a further series of questions arising particularly from that; that is, I ask minister Maher if he has been briefed about this court case. I also ask minister Maher to outline what involvement Straits and Kelaray have had in regard to this bill: have they been consulted on this bill; have they had any input and, if there has been an exchange of correspondence, could the chamber be provided with those?

I further ask the minister to outline what industry stakeholders have been given an opportunity to provide feedback on this bill, both in its previous iterations and in its current form, and on what date that feedback was given and what stakeholders in the industry gave that feedback or were invited to give feedback. I also ask minister Maher, before we proceed to address the second reading, what role the Minister for Mineral Resources and Energy has had with regard to this piece of legislation before us.

I have heard some members of this place express frustration that in fact we have been looking at reviews of this bit of legislation since at least 2008. I know that it has been under review in the terms of minister Weatherill, minister Portolesi, minister Caica, minister Hunter and now minister Maher. I think I have covered them all—five ministers who have been involved in this process. Minister Maher, in bringing legislation forth (which did not occur under the previous four ministers) should not assume, because of the very long consultation processes on various iterations of legislation, that we should then rush through this particular bill. That seems to me quite an odd jump in logic. In fact, if it has taken five ministers and this many years—since prior to 2008—I certainly question why the bill needs to be put through in a week at this point of the process and why due process cannot be given to ensuring proper debate.

As I say, I look forward to receiving further feedback from the stakeholders with whom we will continue to consult. The Greens will be raising further questions as we go through this process and I indicate that, certainly at this stage without those due processes, the Greens are unable to support a bill that is being rushed through the parliament.

The Hon. K.L. VINCENT (12:20): Dignity for Disability welcomes the opportunity to speak about the important issue of the protection of Aboriginal heritage in this state. Since the Aboriginal Heritage Act was proclaimed in 1988, there have been significant changes that need to be incorporated into our Aboriginal heritage administration and legislation, most notably:

- the enactment of the commonwealth Native Title Act 1993;
- the enactment of new Aboriginal heritage legislation interstate;
- the government's native title claims resolution process;
- the development and implementation of legislation that takes an integrated approach to land management and use; and
- the widespread use of agreements negotiated directly between Aboriginal people and land developers about heritage and related matters.

In the short film *Nation to Nation*, a co-production of the Ngarrindjeri Regional Authority and Change Media, Daryle Rigney states:

> It takes great courage to think about how do they open up Australian society in ways where power is shared far more equitably than it currently is, where there is actually a real investment and a real acknowledgement about the history of this country and about Aboriginal Nations and their management of these lands and waters for millennia, and to think about how do they create a future for all [South] Australians, but central to that has to be the recognition of Aboriginal people as the first peoples.

I acknowledge what I understand has been a broad consultation process on this bill and, importantly, I thank the volunteers of Aboriginal communities around the state who have come together to see how we can create a better way.

However, of course, as previous speakers have done, I would like to acknowledge that my office has also been contacted with some concerns from bodies including Native Title Services and the Aboriginal Legal Rights Movement and, like previous speakers, I would certainly like to hear the minister respond to those concerns at the committee stage.

I would also like to point out, as did a previous speaker when I was just coming in, that this bill was first flagged by Labor in 2008, so there have certainly been some concerns about the rapid passage of this bill. As I said, I understand that the process has been quite consultative, but given that several offices of parliament have in recent days been contacted with fresh concerns, I would certainly be grateful if the minister could clarify his position on those when he next has the opportunity.

That said, I understand that the changes, when implemented, will allow a clear pathway for Aboriginal communities to work with, for example, investors to provide economic security, while at the same time protecting and respecting Indigenous culture. It will give communities the option to negotiate terms for agreements, for example, with companies that seek to operate in a specific area, around an employment target for local people or any other aspect of engagement with recognised Aboriginal representative bodies.

Across this state, over many years, individual Aboriginal nations have worked hard with local and state authorities to establish their position as custodians and protectors of their country. In so doing, they seek greater economic, political, social and cultural freedom. The government has, by my count, had no fewer than seven ministers for Aboriginal affairs and reconciliation since the year 2002. Switching ministers is not a good way to build long-term relationships. Good work is easily undone and trust is easily broken, and when there are important decisions to be made it takes time.

With five ministers at the helm during the negotiations, I acknowledge that the detailed consultation with Aboriginal nations, cultural and language groups and, of course, the state has been a long process. This same spirit of giving time to work through things has not been evident in the process of getting the bill to this place, but that is government. Perhaps that is one of the ways government earns itself a bad name.

Without singling out any particular group, I would like to acknowledge the strong work done by Aboriginal nations across the state to develop their own processes of working with local and state government and private businesses. In some ways, the amendments before us will strengthen existing processes such as these and create more certainty of a one-stop shop for those seeking permission and engagement with Aboriginal groups.

The original scoping paper for the review of the Aboriginal Heritage Act, which was released, as I said, in December 2008, stated:

> Fundamental to the success of any new legislation will be a commitment of adequate resources to establish and build the capacity of Aboriginal groups to participate in the long term. The current system provides sporadic and short-term involvement by Aboriginal groups and individuals, as participants in surveys, either as part of an informal 'clearance' agreement, or as part of a formal survey pursuant to section 12 or 23 of the current Act. Having a negotiation-based system allows all parties to plan and develop for the long term. Adequate resourcing is vital, not only for long-term protection of Aboriginal heritage, but also for Aboriginal groups' stability and effectiveness. Under the AHA, the Aboriginal Heritage Fund depends on appropriations from Parliament and is available to be drawn upon by the Minister for a range of purposes consistent with the Act.

I would like to reflect a moment on my quote, which does come from the government's own scoping paper in 2008, and the fact that it does acknowledge that we have for a long time, within parliament and within government, seen Aboriginal engagement as something of a box-ticking exercise or a clearance-getting exercise, rather than a long-term goal or a long-term intrinsic part of a broader process. I would certainly like to acknowledge that we have before us in this bill an opportunity to move beyond that, and I think we need to seize that opportunity.

I also cannot help but recognise the parallels that exist in terms of engagement with the disability community as well. I think that we still have a long way to go for meaningful consultation

and involvement in respect of all people in the South Australian community. I would like to know what provisions will exist to support groups to meet and prepare themselves for a discussion and negotiation under these new provisions. I would also like to know how many successful prosecutions there have been under the existing act and what penalties are envisaged under the amended act. I hope these queries can be discussed with the minister in committee.

In data recently released through the Australian Early Development Index, information was collected on over 300,000 children in Australia, representing 96.7 per cent of children in their first year of full-time school. The key findings included that 22 per cent of non-Indigenous children were developmentally vulnerable in one or more domains. This sounds bad enough, but then we consider that 42.1 per cent of Indigenous children were found to be developmentally vulnerable in one or more domains. This is the gap. These are the issues we must address: Aboriginal health, wellbeing and education, incarceration, employment, domestic violence and the underlying and ongoing impact of intergenerational trauma.

These are not necessarily the issues we are discussing today but, as I said, they are underlying. They are ever present within Aboriginal communities and cannot be ignored, and are issues that need to be ever present as such in our minds as parliamentarians. If, through creating a stronger platform for Indigenous consultation and negotiation, we can empower local people to negotiate better deals that will lead to improved socioeconomic conditions that will then flow on to have an impact on these issues that I have just outlined, that will be huge. On behalf of Dignity for Disability, I acknowledge the importance of protecting the ongoing relationship of Aboriginal people to land, water and everything in between, and to place and heritage, and I support the bill.

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

TOBACCO PRODUCTS REGULATION (ARTISTIC PERFORMANCES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 3 December 2015.)

The Hon. S.G. WADE (12:32): I rise to support the Tobacco Products Regulation (Artistic Performances) Amendment Bill 2015. Section 46(1) of the Tobacco Products Regulation Act 1997 prohibits smoking in enclosed public spaces, workplaces and shared areas. Exemptions from the Governor can be sought under section 71. This bill seeks to deal with practical inefficiencies in the application of section 71 in providing exemptions for artistic productions.

Investing the power to grant exemptions solely on the Governor has meant that artistic performances have been subject to what has proven to be an unnecessarily drawn-out process. Applicants have to apply at least three months in advance of the performance and of rehearsals. Such an onerous application process does not balance the risk posed. The proposed amendments seek to lift this burden.

Theatre groups often rely on the smoking of cigarettes to provide authenticity, but attaining the necessary exemptions under section 71 can be tedious. The proposed amendments propose to vest the minister with the power to grant exemptions rather than the Governor. The Liberal opposition considers that the bill is an appropriate enhancement of the efficiency of administration of our health promotion legislation and in turn also supports the arts sector in its role in adding to the rich culture and economy of the state.

As the former shadow minister of the arts, I strongly support the role that the arts play in our culture and in the life of our state. In holding the title of the Festival State, South Australia needs to do what we can to enhance and nurture that sector. Whilst I acknowledge the Cancer Council's concern that allowing exemptions to smoking on stage may promote the normalisation of smoking, it is important to balance these concerns against the expected effect of the proposed changes. The health risks associated with cigarette smoking, as highlighted by the Cancer Council, rightly justify the existence of the ban under section 46(1). This bill maintains the ban, it maintains the exemptions from the ban; all it does is make the exemptions easier to get.

In the interest of public health, conditions such as adequate stage and audience ventilation and the use of only herbal rather than tobacco cigarettes already apply to exemptions under section 71. The proposed amendments to section 71 will not affect these conditions. The bill primarily seeks to simplify the process of seeking these exemptions and reduce the administrative burden. In this regard, it is important to note that between 2008 and 2015 a total of 53 requests for exemptions were received and, of these, 48 obtained an exemption. If this bill passes, the number of exemptions needed will not reduce. The proposed changes are simply a sensible way of simplifying the application of section 71, a move which we believe will nurture the arts without increasing the risk to health. The opposition supports the bill.

The Hon. J.A. DARLEY (12:35): I rise to briefly contribute to the debate on this bill. The purpose of this bill is to streamline exemptions sought for artistic performances from section 46(1) of the Tobacco Products Regulation Act 1997 which prohibit smoking in an enclosed public space, workplace or shared area. The bill shifts the exemption powers from the Governor to the Minister for Mental Health and Substance Abuse or a delegate.

In this day and age, when electronic cigarettes are commonplace, I find it baffling that an exemption is required at all. I understand the minister's argument that smoking may form an integral part of an artistic performance, especially for historic plays; however, imitation cigarettes that mimic the look of and smoke emitted from real cigarettes now exist. The dangers of smoking are well known and it is perplexing that artistic directors would choose to use real cigarettes, albeit herbal, which would expose their actors, crew and the audience to passive smoking.

I note the definition of a tobacco product under the act includes 'any product that does not contain tobacco but is designed for smoking', and would be grateful if the minister could clarify whether exemptions need to be sought for electronic or other imitation cigarettes. However, I note that the main aim of this bill is to reduce red tape, something that I am wholeheartedly supportive of. Whilst I do not agree with real cigarettes being used in artistic performances, this bill is not debating the merits of this issue but rather streamlining the process for an exemption. As such, I support the bill.

The Hon. G.A. KANDELAARS (12:37): I rise to speak in support of this bill. This bill seeks to amend the Tobacco Products Regulation Act 1997 to provide the Minister for Health and Substance Abuse the power to exempt a person or class of persons from the provisions of the Tobacco Products Regulation Act 1997 for the purposes of artistic performance.

Smoking in enclosed public places, workplaces and shared areas has been prohibited under section 46(1) of the Tobacco Products Regulation Act 1997 since 2004. The purpose of this legislation has always been to protect people from passive smoking in enclosed public places and workplaces. Section 46(1) does not restrict the depiction of smoking in artistic performances using fake cigarettes.

Artistic performances add to the rich culture and economy of South Australia. In some cases these performances include smoking as an integral part of the script or an essential activity within the context of the performance. Rather than glamorising smoking, many of these productions depict smoking as an undesirable activity and a symbol of death and disease.

Under section 71(1)(a) of the act, His Excellency the Governor may by proclamation exempt a person or class of persons from the operation of the provision of the act subject to conditions as may be set out in the proclamation. Producers of artistic performances have been able to apply for an exemption under section 71(1)(a) so that smoking can occur inside venues under specific conditions.

Contrary to recent media claims made by the Cancer Council of South Australia, under the new proposal the same careful consideration will be given to each application for an exemption. It is important to note that the administrative process will be simplified by enabling the minister or delegate to grant an exemption instead of requiring cabinet approval and a proclamation by His Excellency the Governor.

The government does not support smoking; in fact, it provides funding to the Cancer Council of South Australia to provide smoking cessation services to the South Australian community. At this point, I would like to acknowledge the great work that the Cancer Council of South Australia does in

reducing the number of smokers and preventing people from taking up smoking. This bill does not change this position. What the bill will change is the administrative process for obtaining a performance exemption.

The current application process is administratively protracted, and for applicants this means that they must apply at least three months in advance of a performance and rehearsals. As many honourable members would be aware, the arts community is a cutthroat industry and many performers work with shoestring budgets. Anything the government can do to assist to reduce red tape and burden would be welcomed by the arts community.

The passing of this bill will simplify the government's artistic performance exemption procedures and reduce the administrative burden on cabinet and the Governor whilst still ensuring that all of the strict conditions that are required when a production is granted an exemption are met. For applicants, the only change to the existing application process will be a reduction in the time taken to process applications from three months to two months.

Applicants will still be required to explain the context in which smoking occurs during a performance, its relevance to the production and why smoking is considered essential to the performance. They must indicate what alternative options have been considered and why these are not considered appropriate. Applicants must also explain how the venue will be ventilated to limit smoke reaching the audience and how the audience will be notified that smoking will be occurring during the performance, if any exemption is provided. I commend this bill to the council.

The Hon. K.L. VINCENT (12:42): The proposed change to the Tobacco Products Regulation Act 1997 aims, as I understand it, to simplify and speed up the processes for the producers of an artistic performance to apply for an exemption under section 71. In other words, if they wish to let one or more of the actors in a production smoke on stage during the performance of a play, this bill proposes to streamline the administrative burden to allow that to happen by allowing that exemption to be granted by the Minister for Mental Health and Substance Abuse rather than by the Governor.

As a former, participant and current patron of the performing arts, particularly the theatre in South Australia, I am in favour of any measure that enables those making theatre to focus on their art and not be distracted by red tape. From that point of view, Dignity for Disability certainly supports the aim of this bill.

Notwithstanding our support, of course, we are also acutely aware of the ongoing illness, disability and premature death that is caused by tobacco smoking, including the risks to health associated with second-hand smoke. For this reason we continue to be shocked and disappointed that certain political parties, including some in this place, are still willing to accept donations from tobacco companies.

I note that minister Hunter's second reading speech stated that conditions to these exemptions included the requirement for an audience to be informed that smoking will occur during a performance, for adequate stage and audience ventilation, and the use of only herbal cigarettes rather than tobacco cigarettes. While that is a step in the right direction I suppose, as has been pointed out, there are perhaps some even better alternatives that could be investigated.

I trust that these conditions will continue to apply to any exemptions granted by the minister if this amendment is passed. I also hope the passing of this bill does not lead to any increase in the amount of smoking that occurs in performances. Finally, I will state that my vote in support of this bill should not be seen in any way as support or sympathy for the tobacco industry, the demise of which, frankly, cannot come soon enough for the sake of the health of all South Australians. With those few words and a keen sense of irony, Dignity for Disability supports the bill.

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

DOG AND CAT MANAGEMENT (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 November 2015.)

The Hon. J.A. DARLEY (12:46): The Dog and Cat Management (Miscellaneous) Amendment Bill makes a number of amendments to the existing act. I will not speak to all the aspects of the bill but merely the main aspects.

I am supportive of compulsory microchipping of dogs and cats as I believe it is beneficial not only for the owners but for the animals as well. There are often instances where dogs and cats are separated from their owners, and obviously if the animal is microchipped that will ensure it is returned quickly. This reduces the stress on the animal as well as the anxious owners. An exemption exists for some animals, provided it is at the discretion of a veterinarian. I understand that the Hon. Robert Brokenshire and the opposition have filed amendments which would exempt working farm dogs as well.

The bill also provides for compulsory desexing of dogs and cats. Again, the bill allows for veterinarian-approved exemptions; however, it also allows an additional exemption for registered breeders. Many councils have offered discounts on dog and cat registration for owners who have microchipped and/or desexed their animal. This is a positive move which encourages responsible pet ownership. However, I was recently contacted by a constituent who had gone to register their dog. I understand there is a requirement to register a dog within three months, and this person attended the council within three months and was advised that the registration could be further discounted if the dog were desexed.

However, for many dog breeds it is not recommended that they be desexed until they are at least six months old. I understand some councils offer to apply the discount retrospectively once owners are able to provide proof that the dog has been desexed, but in this particular case the council advised that no discount would apply. This matter was raised at the briefing with the Local Government Association and the minister's office, and I would be grateful if the minister could advise if he has any further information on this.

A new breeder registration scheme will be established under the bill, whereby registered breeders will have to abide by a code of practice. Only breeders who are registered will be allowed to sell dogs or cats, and a list of these breeders will be kept by the Dog and Cat Management Board. I understand that registration will be to the tune of about $100 or so per animal. Whilst I appreciate that the board would want to keep breeder registration low-cost, I am concerned that there is no regulation of the breeders: that is to say, I understand that there is a mandatory code of practice that breeders must abide by, but there is no-one who will check to ensure that this is being adhered to.

Can the minister provide further information about this? In particular, will councils and the RSPCA rely on information from the public to investigate breaches of the code? How will breaches of the code be dealt with? If a breeder is deregistered, will this be declared as a reviewable decision that can be reviewed by SACAT? Will deregistered breeders be named and shamed on the board's website?

The minister indicated that a breeder registration scheme would reduce or stamp out puppy farms. However, without regulation of the code of practice, I do not understand how this would occur, and I would be grateful for any further information on this.

The Hon. K.L. VINCENT (12:50): This bill aims to address the distressing alleged treatment of animals in puppy and kitten farms and the equally outrageous high rates of euthanasia of dogs and cats. It proposes a range of measures, including greater power for councils to manage dogs; additional powers to manage cats, subject to each council's discretion; mandatory microchipping of all cats and dogs; mandatory desexing of cats and dogs; greater evidence-collecting powers for councils; increased expiations and penalties; and registration of breeders.

Dignity for Disability certainly supports all these measures in principle and understands that, as it is appropriate, some specific measures, such as the prescribed ages for microchipping and desexing, are to be set by regulation, and I understand there are some further amendments to that which certainly are worth consideration, I believe. While I think the desexing of animals is important, we certainly do not want to create a situation where they are being subjected to that prior to the appropriate age or in a way that leads to any further complications.

A further measure proposed by the bill is worthy of particular support, namely, the proposal to amend section 21A relating to the accreditation of assistance dogs. The act now provides for accreditation of 'disability dogs, guide dogs or hearing dogs' to enable the dog to accompany their handler, a person with a disability, on public transport or in a shop or restaurant, for example. However, the act currently stipulates that the Dog and Cat Management Board must accredit such a dog, even if it has already been trained and accredited by a relevant body, such as the Royal Society for the Blind.

This bill proposes to make that easier and to improve this, first, by replacing the somewhat outdated terms 'disability dog, guide dog and hearing dog' with the overarching term 'assistance dog'. Secondly, it proposes that an assistance dog may be accredited by the Dog and Cat Management Board or another prescribed accreditation body where relevant, such as the Royal Society for the Blind, Guide Dogs, or Lions Hearing Dogs, for example. It needs to be accredited by one or the other, rather than both.

The bill provides that additional accreditation bodies be prescribed by regulation. It appears that the proposed amendments to the process for accrediting dogs could cut down the time and cost of the process of accrediting an assistance dog to a person with a relevant disability, and on that basis Dignity for Disability fully supports that measure. Nonetheless, I take the opportunity to point out that this reform could go much further.

More than one constituent has informed my office of issues relating to assistance and/or therapy animals, that is, dogs, cats or other animals used as aides to physical, emotional or psychological support or therapy. Such animal-assisted therapy, animal-assisted intervention or animal-assisted activity or companion animals, is recognised to varying extents by some interstate and overseas jurisdictions, including New South Wales, Victoria, the ACT, the commonwealth, the United Kingdom, Canada and the United States of America, as well as New Zealand.

I appreciate that the Dog and Cat Management Act may or may not be the best vehicle for legislating for greater recognition of companion and therapy animals; nevertheless, with these few words I wish to flag that there is still ongoing work to be done beyond recognised assistance animals, and I am very happy to be a part of those discussions to enable people with disabilities and other conditions to take full advantage of the many therapeutic qualities of having animals in their lives, which may or may not fit under the term 'assistance animals'.

I hope that we can continue to see that those benefits are increasingly recognised, and I am happy to work on that alongside any member in coming times. With those words, on behalf of Dignity for Disability, I support the bill.

The Hon. R.L. BROKENSHIRE (12:55): Unlike the Hon. Rob Lucas at times, I will be very brief commenting on this bill, but that does not mean that Family First is not absolutely committed to achieving the best outcomes in regard to the intent of this bill. In summary, the bill is overdue, and I congratulate the minister on this occasion for getting this legislation into the house because pretty much for as long as I have been in parliament there has been debate about the issues around dog and cat management and control and about desexing and microchipping.

When driving around Adelaide, you can see many dogs that look as if they are not being looked after and almost feral cats that claim the lives of our beautiful native birds. You also see them out through the farming areas where I live, and it is out of control. I understand that 10,000 dogs, or some huge number like that, are disowned every year. We cannot go on the way we have been in the past. From all the advice given to us, whilst I have pages and pages of notes, in summary it appears that the absolute majority of people (80 per cent) who responded to YourSAy supported the provisions of the bill.

I note that the Australian Veterinarian Association, whilst agreeing with mandatory desexing of animals, has made some qualifications that we can perhaps tease out in committee, but I am keen to see the second reading of this bill pass. I do have an amendment, as the Hon. John Darley and the Liberal Party have flagged. I would ask the government in a bipartisan way to have a close look at my amendment. It has been requested by people involved with working dogs, and I believe it is a sensible amendment for farmers and pastoralists. I will speak more about it in committee when I speak to my amendment.

In summary, I believe that this measure needs to be passed. I am pleased to see us finally bringing in some proactive and positive amendments to the Dog and Cat Management Act that I hope will augur well for the better management of dogs and cats into the future.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

Sitting suspended from 12:58 to 14:18.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:18): I bring up the 12th report of the committee.

Report received.

Ministerial Statement

MINERAL AND ENERGY RESOURCES

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) (14:18): I table a copy of a ministerial statement relating to a mineral licence grant to Tarcoola Gold Project made in another place by the Minister for Mineral Resources and Energy.

ARRIUM

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) (14:18): I table a copy of a ministerial statement relating to the Australian Rail Track Corp upgrade made in the other place by the Minister for Mineral Resources and Energy.

Question Time

SA WATER INFRASTRUCTURE

The Hon. S.G. WADE (14:19): My questions are to the Minister for Water and the River Murray. Will the minister guarantee that none of the residents impacted by the water main bursts in Paradise and Campbelltown earlier this week will be out of pocket as a result? Will the minister commission an independent audit of the total cost of the water main bursts at Paradise and Campbelltown including the cost to SA Water, insurance companies—

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: —residents, the local council and state emergency services?

Members interjecting:

The Hon. S.G. WADE: Will the minister commission an independent report—

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: —into whether the bursts were due to any negligence—

The Hon. J.S.L. DAWKINS: Point of order.

The PRESIDENT: I get the drift. The honourable member has the floor. He is asking a question. At least keep quiet and allow him to ask his question in silence. The Hon. Mr Wade.

The Hon. S.G. WADE: Will the minister commission an independent report into whether the bursts were due to any negligence on the part of SA Water or any of its contractors? How many previous investigations has SA Water conducted into itself or any of its contractors that found negligence on the part of SA Water or its contractors?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:20): I thank the honourable member for his most important questions because it allows me to put on the record some

responses to outright inaccuracies that the opposition have been pedalling in the media for a couple of days.

On 7 March, four bursts occurred on 450 millimetre cast-iron water mains in the north-eastern suburbs with two in Campbelltown, one in Paradise and one in Newton, I am advised. With our mains water network stretching over 26,000 kilometres, having bursts, of course, is unavoidable, but we can minimise the impact of these incidents. I should say at the outset that we as a government understand that these incidents, when they do happen, are very stressful for those people who are impacted, for those homes that are impacted, the lives that have been inconvenienced and the property that they have lost. I am advised that, in total, about 40 properties have been affected. That is the latest information I have to date.

The Hon. R.L. Brokenshire: Forty.

The Hon. I.K. HUNTER: Forty have been affected, with six having experienced internal flooding, all of which were located at Willow Drive, is my advice. I am also advised that there was possible internal flooding at a further property, but that is yet to be confirmed. I am advised that two vehicles, also located on Willow Drive, were also damaged by the water that was cascading down the street.

Our immediate focus, of course, is on assisting affected property owners with their immediate needs and ensuring repairs to the network are completed as a matter of priority. This is a matter of public safety. Five Allwater crews were dispatched to the bursts, I am advised, with four remaining onsite to carry out repairs. Allwater, which is contracted by SA Water to maintain its metropolitan network, had staff onsite all last night to offer temporary accommodation to affected customers. Residents were able to arrange temporary accommodation last night, except for residents of one property who were offered temporary accommodation by Allwater/SA Water.

I am advised that cleaners arrived on site at approximately 7pm on 7 March to commence clean-up of the affected properties. SA Water's customer liaison has been doorknocking the area as of yesterday making contact with customers to ensure that they are being provided with information and assistance as they require it. I am advised also that no direct interruption of water supply occurred in the affected areas immediately after the breaks. SA Water is committed to working with customers and insurance companies on a case-by-case basis to ensure that temporary accommodation meets the needs of each individual family should they require it; however, a number of the customers concerned have been staying with family.

In addition, as I said, cleaners have been organised to clean up the affected properties. Mr President, as you know, I visited the area to inspect the site and meet with some affected property owners, and they have indicated that the state government and SA Water are working with them and their insurers to ensure that they are provided with all of the best possible assistance that we can manage for them. Two of the residents told me that they were very happy with the service that they were provided with by their insurance company and the assessors were onsite at the time. The other property owner I spoke to who was not happy was very pleased to tell me that, in fact, after my visit the insurance assessors turned up to help them.

SA Water's customer liaison team will continue to work with customers, of course, and their insurers to ensure repairs are progressed as quickly as possible and temporary accommodation was offered, as I said, if they require it. I have asked SA Water for a full investigation of the cause of the burst mains and I expect that will be undertaken in coming days. Of course, it is a very complex area with complex engineering to be grappled with.

We appreciate that failures in the water mains can be very trying for people, but in reality we need to also accept that South Australia's water main failure rates are below the ESCOSA standard, that is the standard set by the independent regulator. They also compare favourably with interstate counterparts and, despite the sensationalised claims from some of those opposite, have been relatively stable over the last 10 and 15 years. When advised over a 10-year period, failures averaged 3,952 per year, and over a 15-year period averaged 4,063 per year.

For December 2015, there were 140 failures. This was on par with a 25-year average of 139 failures for the month of December, I am advised. For January 2016, there were 146 failures;

this is down on the 25-year average of 179 failures for the month of January. Between 2011-12 and 2014-15, I am advised that SA Water spent an average of $51.4 million a year on direct routine maintenance and repairs, in addition to an average investment of over $300 million a year on the renewal and the upgrade of its pipe networks, treatment plants, water storages and other related infrastructure.

The failure rates of water mains of interstate providers are germane in this situation. It does go to show how well SA Water operates to minimise the breaks and failures of the system. The National Performance Report compares the failure rate of water mains of utilities between comparative interstate providers, that is those with a customer base of over 100,000 customers. My advice is that for 2013-14, South Australia statewide had a failure rate of 11.5 failures per 100 kilometres of pipe per year.

In comparison in other states, Western Australia experienced 17.3 failures per 100 kilometres of pipe per year. Victoria experienced 32.2 failures per 100 kilometres per year and Sydney Water experienced 30 failures. Sydney Water alone experienced 30 failures per 100 kilometres per year—compare that to 11.5 for South Australia. In terms of actual numbers of failures, for South Australia this was 3,091 statewide. Comparatively, failures in Western Australia were 5,858. In Victoria the failures were 15,340 statewide, and Sydney Water alone experienced 6,442 failures in its pipe network system.

Again, I remind honourable members that in South Australia there were only 3,091 statewide. I just want to apprise the house of those facts because there are people out there in the media going onto the wireless and making outstanding claims that don't stand up to a scintilla of investigation, even the tiniest amount of research. The published figures at a national level will show that SA Water is managing our system exceptionally well. Our investment is balanced with cost to consumers.

Honourable members out there who are saying these things on radioland need to apprise those listeners who are listening to them that what they are proposing will cost them more; it will actually cost them more on their SA Water bill. That's what those people are doing. The Hon. Mr Brokenshire and the member for Unley in another place coming up with these grand schemes that they think will fix the system will actually cost the consumers and SA Water's business more money. They are not interested in reducing the cost of living pressures. They are just interested in making political points, grandstanding and charging SA customers more. We will not stand for that.

SA WATER INFRASTRUCTURE

The Hon. S.G. WADE (14:28): I ask the minister, in relation to uninsured residents, can he guarantee that they won't be out of pocket as a result of the water bursts?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:28): I have made the statement in public already. SA Water will look after those customers who don't have insurance. We will not leave them in the lurch.

SA WATER INFRASTRUCTURE

The Hon. S.G. WADE (14:28): In relation to the minister's original answer, is it the minister's intention to have any external party review the internal investigation that he advised the house that SA Water would be undertaking?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:28): No.

SA WATER

The Hon. S.G. WADE (14:28): The minister gave us stats on failure rates around Australia. My understanding is that SA Water is fairly unique in that it is a statewide entity, whereas Sydney Water, for example, is not. Could he give us figures for the Adelaide metropolitan area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:29): Yes, I can. I don't have them with me right now, but I can bring those back to the house. Again, they correspond very favourably for SA Water in comparison to similar utilities around the country.

The Hon. R.I. LUCAS: Supplementary question, Mr President.

The PRESIDENT: Supplementary, the Hon. Mr Lucas.

SA WATER INFRASTRUCTURE

The Hon. R.I. LUCAS (14:29): Will the minister apologise to distressed residents for his statement to the media that, and I quote, 'disruption has been minimal'?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:29): The Hon. Mr Lucas wasn't there when I was asked that question. I was looking around the street before us that was being cleaned up by crews straightaway, and I pointed out to the media present, 'You can see for yourselves—disruption has been minimal, it has been cleaned up already.' But then I went on to express my sympathy for the residents.

The Hon. Mr Lucas here just picks that little bit of a comment out that tries to make his point. He ignores the rest, where I said to the waiting media, 'Of course we understand the incredible inconvenience to the lives of people who have had their lives disrupted,' and how we will make every effort possible to help them through this process. The Hon. Mr Lucas ignores that—he absolutely ignores that. This is his pattern in life: he goes out there and picks little bits of information and tries to blow them up into great crises. He won't give us the full information. The Liberals over there never do. They mislead by omission.

The PRESIDENT: The Hon. Mr Lucas.

NORTHERN ECONOMIC PLAN

The Hon. R.I. LUCAS (14:30): I seek leave to make an explanation prior to directing a question to the Leader of the Government on the Northern Economic Plan.

Leave granted.

The Hon. R.I. LUCAS: Yesterday, I put a question to the minister, just to refresh his memory, that in the last sitting week of parliament when he was asked about the origins of the 15,000 jobs claimed target included in the Northern Economic Plan, and when he was asked who was responsible he said, and I quote, 'This was an aim that has been put forward by the local mayors and myself.' That was the exact quote from *Hansard*.

On yesterday's Adelaidenow website, an article from the *Northern Messenger* journalist Elizabeth Henson had direct quotes from three mayors, which I put on the record yesterday, which conflicted with the claim made by the minister in the house in the last sitting week. My question to the minister yesterday was:

> …does the minister accept that he was wrong when he told the parliament in the last sitting week of this session, 'This was an aim that has been put forward by the local mayors and myself'?

Mr President, you and members will remember that the minister said he wanted to take it on notice and have a look at the words used. Given that it has now been 24 hours, firstly, has the minister now had a look again at the article that was written by Elizabeth Henson? I again put the question to the minister; that is, does the minister accept that he was wrong when he told the parliament in the last sitting week of this session, and I quote, 'This was an aim that has been put forward by the local mayors and myself'?

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. The answer is, yes, I have now had an opportunity to peruse that article. The Hon. Rob Lucas just in the very last question was caught out telling half-truths. We know he has form in there. What is evident and is slightly pleasing—

An honourable member: Tell us about it. Tell us what the facts are.

The Hon. K.J. MAHER: —I will tell you about it—is the Hon. Rob Lucas seems to have graduated to using partial truths and half-truths, rather than his previous tactic of just completely

making things up. We all know the Hon. Rob Lucas's favourite tactic has been to just completely make things up. Phrases such as 'an anonymous fax to Liberal Party headquarters has said' are something that he has used time and time again, but he has been shamed now, shamed into not using that.

We haven't heard that for some time now. I suspect it is because his colleagues have told him it is completely untenable to just make things up and pretend there is a fax at Liberal Party headquarters. It might be the case that his staff have told him, 'People just don't use faxes much anymore.' They have showed him how to use emails. That could be the other reason that he is not using that phrase anymore. The Hon. Rob Lucas's assertion in the last question to the Minister for Water, and in his assertions in this place previously—

The Hon. R.I. LUCAS: Point of order, Mr President.

The PRESIDENT: Point of order. I can hardly hear what he is saying through all the rabble over this side.

The Hon. R.I. LUCAS: Exactly. Point of order, Mr President.

The PRESIDENT: What is your point of order?

The Hon. R.I. LUCAS: The question that I put to the minister was in relation to the Northern Economic Plan. It has got nothing to do with whatever the last question might have been to a different minister.

The Hon. I.K. HUNTER: On that point of order, Mr President, he knows full well he has no substantive basis for a point of order.

The PRESIDENT: Order! Sit down. The honourable minister, stick to your question.

The Hon. K.J. MAHER: Thank you, Mr President. In relation to this question, everyone knows you've got to be very careful relying on anything Rob Lucas purports to quotes in this chamber—and that is for very good reason. He has form. As we have seen, he has form. Let's have a look at what else was said in the newspaper article. Let's have a look at that. Let's have a look at completing the quote, not just a half-truth that he seems to want to peddle here. Let's have a look. The mayors quoted in that article also said:

> I understand that we talked about a job target…I can't remember at this stage at what stage we made that amount.

The mayors went on to say:

> I told him what we've got to do now is we've got to have some targets to aim for.

The other mayor said:

> Government officials discussed with council staff about aspirational job targets throughout the early stages of the plan.

These are the quotes the Hon. Rob Lucas didn't use yesterday. They are the ones he conveniently left out. They are the ones he didn't want all of us to know. He doesn't think we can handle the whole truth. We can, and that's what was said. He has also conveniently half quoted text from *Hansard*, which is his form. What I went on to say a couple of weeks ago, after what has been quoted, about the job targets is:

> This was an aim that the organisations who put forward the Northern Economic Plan have come up with.

Let's also look at some of the other things that the mayors involved in the Northern Economic Plan have said about the plan when it was launched. Mayor Gary Johanson said this in relation to the Northern Economic Plan:

> This is the sort of action that we need to regenerate this state. This is a close collaboration between state government and local government. The very first time that I am aware of, since I've been mayor, seen such close collaboration where we're bouncing ideas off each other. This is a chance to strengthen the community, to strengthen South Australia.

At the same time Mayor Gillian Aldridge said of the launch of the plan:

That will mean jobs, that will mean education, that will mean we are going ahead, and we are…going to be the engine room of the state. I'm very grateful to the Premier and minister Maher and my two colleagues who have worked very hard to make this happen. The spotlight is again on Salisbury, is on the north.

Also on that day, Mayor Glenn Docherty said:

In this Northern Economic Plan called 'Look North' the government and the councils have been working quite closely with business and industry sectors...hundreds and hundreds of businesses have been involved in the formulation and consultation of the plan.

As I said yesterday, the development of the Northern Economic Plan, including the ambition of increasing employment in northern Adelaide by 15,000 to 165,000 by 2025, was done in conjunction with the planning partners. The development of this plan, including this target, was discussed at numerous meetings of high-level officials from the partner councils and the state government, with the final version of the plan that included in excess of $24 million—in excess of $24 million—of new spending initiatives being approved by the state government.

The plan, including the jobs target, has the strong support of all three mayors and myself. I have spoken to each of the mayors over the last week and I've got to say that the leadership shown by the three mayors has been first class. Equally good has been the hard work from the council staff to help develop the plan. The plan continues to be supported by the three councils and the state government.

The plan identifies important growth sectors that have the potential to drive growth and employment. The six growth sectors identified by the plan are: the construction and urban renewal sector; health, ageing and disability; mining equipment and technology; tourism, recreation and culture; agriculture, food and beverage; and defence. The more than 70 businesses interviewed as part of the plan's consultation reported that they are planning new investment worth $247 million and creating 1,160 new jobs over the next 18 months alone.

In the construction and urban renewal area, immediate major construction projects outlined in the Northern Economic Plan could generate more than 1,500 direct new jobs during the next few years. These are projects like the northern connector, the upgrade of schools in the north as outlined in the budget and the 6,000 homes being built through the Playford Alive project. In the health, ageing and disability area, the full rollout of the NDIS is estimated to create 6,300 new jobs for South Australia, with a forecast of more than 1,700 in northern Adelaide. In the tourism, recreation and culture sector, the recently announced nature-based tourism strategy has the goal of injecting $350 million a year into the state's economy and creating 1,000 new jobs by 2020.

In the agriculture, food and beverage area there are growing job opportunities in primary production, food processing, transport and other services. The Food Park in northern Adelaide, for example, will co-locate food manufacturers, suppliers and logistics companies, which will drive efficiencies, create jobs and drive business in a sector that continues to grow. For 17 years this sector has grown year on year. The northern suburbs of Adelaide have a history of growing food, and processing that food will present opportunities for expansion and growth. Additional food production of $250 million could create at least 400 additional direct jobs and further flow-on employment opportunities throughout this northern region.

In defence, naval shipbuilding has the potential to provide thousands of future jobs, starting with the recently confirmed Future Frigate program. Together, offshore patrol vessels and future frigates have the potential to add around 1,700 jobs, and the 12 Future Submarines project could add in excess of 2,500 direct and 2,500 indirect jobs. In the mining equipment and technologies areas, projects like our Plan for Accelerated Exploration (PACE) and the Internet of Things mining cluster are working to increase sales revenue for South Australian businesses participating in the minerals and energy supply chain, and to increase the number of full-time employees in the supply chain.

The Northern Economic Plan is a significant plan. We have heard today some of the comments that have been made by people who were involved with the plan. It is a comprehensive plan, it is an ambitious plan, it is a big plan; it makes a thud. It is a decent plan. That is in direct and very stark contrast to what we saw from the Liberal Party, released at the end of last year. I would like to call it a flyer or a brochure but that would be giving it too much credit. This is their whole plan.

It is a bit of paper, one bit of paper. This is their rehashed, previous thought bubbles. This is their plan, their economic plan for the whole of South Australia, the sum total of their accumulated knowledge and ambition for this state.

We can see the Hon. Rob Lucas giggling and laughing. He probably knows; he had a whole lot to do with this. It would be generous to describe this plan as ambitious, it would be generous to describe this plan as a single piece of paper. This is what their plan can do; it does not even float. It is a sinker of a plan, completely and utterly.

NORTHERN ECONOMIC PLAN

The Hon. R.I. LUCAS (14:41): A supplementary: given the minister's refusal to answer the question, is the minister saying that Mayor Gary Johanson has not told the truth when he told Elizabeth Henson that he 'first heard of the 15,000 jobs target after the plan was launched'? Is the minister also saying that Mayor Glenn Docherty is not telling the truth when he told Elizabeth Henson, from the *Northern Messenger*, that 'he learnt of the 15,000 jobs target when he received the final draft of the plan the evening before it was launched in January'?

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) (14:42): Absolutely not. I reject any suggestion from the Hon. Rob Lucas that those men tell lies. I will defend those mayors. I have worked very closely with them and I will not have them called liars by the Hon. Rob Lucas; it makes it plainly clear when you do not come out with half-truths and take into context everything that was said in the article. The Hon. Rob Lucas is now sitting back highly embarrassed from what he has said previously.

ADELAIDE DESALINATION PLANT

The Hon. J.S. LEE (14:42): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question about the Desalination Plant.

Leave granted.

The Hon. J.S. LEE: The Senate inquiry has revealed that the state government has failed to honour a promise to reduce water pumped from the River Murray. Utility figures show that Adelaide's take from the Murray increased to 73 billion litres last year, up from 43 billion litres. This over-usage now puts South Australia in breach of its agreement to win $228 million in federal funding for the desalination plant.

The Hon. I.K. Hunter: What rubbish.

The PRESIDENT: Order! Let the honourable member ask the question and then you will be able to answer.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lee has the floor.

The Hon. J.S. LEE: Thank you for your protection, Mr President. The state government confirmed that the $228 million federal funding agreement meant that there would be no future increases in how much water was drawn from the Murray by South Australia, and the minister said that the state would not increase its entitlement to take water. The Desal Plant, which cost $2.2 billion and significantly increased customers' water bills, was designed to produce 100 billion litres of water for Adelaide and stop the city's reliance on the River Murray. However, it has been reported that the Desal Plant is operating at only minimum capacity in order to avoid maintenance and restart costs. My questions are:

1. Will the minister confirm that the state government has breached its agreement to win the $228 million in federal funding?

2. Has the minister contacted the federal government to determine what action it will take against South Australia for breaching the agreement?

3. When can we expect South Australian Desal Plant to be fully operational an honour the promise to reduce South Australia's reliance on 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) (14:44): What incredible garbage from the opposition. No wonder the woman was preselected last on the Liberal Party ticket recently. Is she repeating the remarks of Senator Bob Day?

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

The Hon. I.K. HUNTER: Well, fourth.

The Hon. J.S.L. DAWKINS: Point of order.

The Hon. I.K. Hunter interjecting:

The PRESIDENT: Minister, show a little respect for members asking questions. Just answer the question.

Members interjecting:

The Hon. I.K. HUNTER: How can you show respect for such stupidity, Mr President? Goodness gracious!

Members interjecting:

The PRESIDENT: Order! The minister has the floor.

The Hon. I.K. HUNTER: We have an honourable member in this place who forgets that she is here representing the people of South Australia, peddling the mistruths that Senator Bob Day is peddling around the federal parliament, standing up for the irrigators in New South Wales and Victoria and selling down the river the irrigators of South Australia. We had the Liberal Party do that here—

The Hon. R.L. BROKENSHIRE: On a point of order, I understand that we have to actually put the truth on the record in this house. That is not true and I ask the minister to withdraw it.

The PRESIDENT: That is not a point of order, comrade. Sit down.

The Hon. I.K. HUNTER: Family First is embarrassed by their federal senator—

The Hon. D.W. RIDGWAY: On a point of order, sir, did you call the Hon. Robert Brokenshire 'comrade'?

The PRESIDENT: The honourable comrade. Sit down.

The Hon. D.W. Ridgway: So, you've a new style of presidency, calling people comrades?

The PRESIDENT: You should be the last one to be making any comment about anyone's behaviour. You have put us through some outrageous behaviour this afternoon. Minister, answer the question.

The Hon. I.K. HUNTER: I should hope that we would all conduct ourselves in a comradely fashion in this place. We are all comrades in the same service to the people of South Australia, yet you hear such rubbish from honourable members opposite about South Australia's interests, selling out South Australian irrigators to the interests of the Eastern States. Once again, we have the honourable member coming in here, peddling mistruths that she is getting from a Senate enquiry, headed up by Senator Leyonhjelm and Senator Day. Senator Day is supposedly representing our state, but again all he is doing is championing the interests of people in Victoria and New South Wales.

The Hon. R.L. Brokenshire: Wait until you see the report.

The Hon. I.K. HUNTER: Well, the Hon. Mr Brokenshire reminds me that I should wait to see the report. He is quite correct: I shouldn't prejudge the outcome, even though I am hearing on the wireless several times when Senator Bob Day is in town doing interviews that he is actually taking the part of the Eastern States. Again, it falls to the Labor Party in this state to stand up for South Australians wherever they may live in the state—and that is exactly what we will do.

In terms of the desal plant, let me just I advise the honourable member on a few facts—it might help her. The Adelaide desal plant is a key component of this government's investment in water infrastructure, which has guaranteed our water security to 2050, something the Liberal Party could never do. It is an important insurance policy against future drought. There is part of the answer for the honourable member to one of her final questions: it is an important insurance policy against future drought. That is why it's not pumping out at full capacity right now. Because why? It costs more.

The honourable member over there, Ms Jing Lee, would want us to increase the cost to SA Water consumers. If I take the inference rightly from her question, that's what she wants to do: she wants to drive up the cost to SA Water customers. That's not what we do. We balance the water that's in the system, in our reservoirs, in the river, and, yes, with the Desal Plant, to get the most cost-efficient outcome for SA Water customers.

The Liberals opposite want something different. They want us to turn on the Desal Plant at 100 per cent and drive up those costs, charging SA Water consumers even more. We won't stand for that. It is an important insurance policy that we have there in case we need it and, of course, all the projections, particularly about future global warming, are telling us that we will need it into the future.

The Adelaide Desal Plant has been operating, I am advised, since October 2011, and since that time has produced a total of 130-odd gigalitres of water as of February of this year. The Adelaide Desal Plant successfully completed, I am advised, the operational proving period (also called the warranty and defects correction period) in December 2014. The plant is currently being operated in minimum production mode, contributing 30 megalitres per day for nine months of the year, approximately eight gigalitres of water, I am told, per year. Incorporated in this mode of operation is an approximate three-month period of maintenance, which I am told is usually scheduled when the demand for water is low, which is probably winter.

As part of its submission to ESCOSA for the next regulatory period from 1 July 2016 to 30 June 2020, SA Water included a proposal to continue operating the ADP in minimum production mode. Operating an appliance at minimum capacity as opposed to placing it in standby mode maximises the useful life of the plant and the investment SA Water customers have made in its construction.

In addition to minimising the cost of operating the plant across its life, operating the plant at minimum capacity provides greater flexibility in operating the plant at greater capacity and benefits the wider network in reducing the need for capital investment. In ESCOSA's draft regulatory determination—I have to remind the chamber that it is only a draft at this stage—which was released on 10 February 2016, the operation of the ADP was considered as part of SA Water's overall optimised water supply portfolio.

The draft provides for the operation of the plant over the coming four years in minimum production mode and this draft position does not require SA Water to run the plant at that or any other capacity I am advised. It simply acknowledges that it is prudent and efficient given the available evidence to make a revenue allowance that would permit the inclusion of water sourced from the ADP within an optimised water supply portfolio—that is ESCOSA in the draft determination.

SA Water is working with the ADP operator, AdelaideAqua Pty Ltd, at both the contractual and operating level to look at reprofiling the daily flow arrangement to achieve the desired maintenance and plant availability outcomes at a reduced cost to the business and therefore to SA Water customers. It is important that we realise that this plant is there operating in this mode to give us the best and the cheapest outcome for our consumers.

I remind the honourable member about the amount that I said the plant has produced—130-odd gigalitres as of February 2016. That is 130 gigalitres that does not have to come out of our other water resources, for example, reservoirs or the Murray. Of course, as we know, at the moment reservoir levels are rather low. The honourable member even fails at the first hurdle. She does not acknowledge that the Adelaide Desal Plant has produced 130-odd gigalitres as at February which has not come out of the river system—a saving to the river system.

The other thing she has not acknowledged either is that, under the agreement with the federal government, we have an allocation, a five-year average allocation. I cannot remember the

exact amounts right now but we are nowhere near even two-thirds of that. We have not even approached the limits of the allocation that is allowed to us under that national agreement. So where does the honourable member then stand on this false allegation which she has picked up goodness knows where—maybe listening to the Hon. Mr Brokenshire on the wireless. I would advise her against that as it will lead to perdition in one way or another.

I say to the honourable member: let me give you the facts and then you can go and think about your questions in the future. Don't rely on the Hon. Mr Brokenshire or Senator Bob Day to give you those facts because you will be severely misled.

The Hon. R.L. Brokenshire: You can rely on me more than you can rely on the minister.

The Hon. I.K. HUNTER: I doubt that.

CHINA TRADE

The Hon. G.E. GAGO (14:52): My question is to the Minister for Manufacturing and Innovation. Can the minister inform the chamber as to how local companies are capitalising on growth opportunities in China?

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) (14:53): I thank the honourable member for her question and note her ongoing interest in areas like business opportunities in China and companies here expanding their operations, and note that Micromet and the agreement they signed yesterday was partly brought about by the Hon. Gail Gago's time as a minister and her work in these areas. I want to pay particular tribute to her work with this particular project and with SinoSA specifically and her work in this area much more generally.

We know that many South Australian companies are expanding their markets through export opportunities and partnerships abroad, taking their products and services to the world. A local manufacturer, Micromet, has been in business for around 20 years in Adelaide, initially developing irrigation control technology. Over recent years, the company has been developing innovative water treatment technology which they have recently begun commercialising, selling this product into global markets.

Micromet's new disruptive technology allows organic content to be removed from contaminated water using electrolysis. Through the application of pulsated electrical current passed through contaminated water within enclosed chambers, their product enables organic content to be separated and subsequently removed from the water. This technology is ideally suited to the treatment of sewage, greywater and industrial effluents and is also effective at removing some pathogens. I understand that an added benefit of the technology is that it is modular and easily scalable, allowing it to meet the needs of a wide range of applications.

Micromet participated in the state government's trade mission to Shandong in May 2015 and, through this, the company was able to identify significant market opportunities in China to help address a significant problem with contaminated groundwater and trade waste in that country. I understand that, subsequent to attending the trade mission, Micromet has taken a trial unit of their technology back to China to conduct successful trials of the technology. Following the successful trials, they have identified suitable investors and negotiated a joint venture with their Chinese partner.

Yesterday, I had the distinct pleasure of providing a tour of the parliament to representatives from the Chinese company, Dadongwu: its chairman, Mr Meng; director, Mr Ma; and business agent interpreter, Ms Fan—

The Hon. J.S.L. Dawkins: Mr Ma—is he a relative?

The Hon. K.J. MAHER: It's a great name. I'm not aware of any relationship, but in the technical sense, we all come from one common ancestor, so I guess we are related in geological timescales—and also representatives from Micromet, Jim Townsend, the managing director and Andrew Townsend, the engineering sales director.

Following this, my very good friend and very good egg the Minister for Investment and Trade, the Hon Martin Hamilton-Smith and I—

An honourable member: Good egg!

The Hon. K.J. MAHER: Good egg—oversaw the signing of a joint venture agreement—

Members interjecting:

The Hon. K.J. MAHER: Go on.

Members interjecting:

The PRESIDENT: The honourable minister has the floor.

The Hon. K.J. MAHER: Following the signing yesterday, my good friend and very good egg, the Minister for Investment and Trade, the Hon. Martin Hamilton-Smith and I oversaw the signing of a joint venture agreement—

The Hon. D.W. Ridgway: He reminds me of one of those 200-year-old eggs out of China that's all black on the inside.

The PRESIDENT: The honourable Leader of the Opposition, could you keep your comments to yourself while the minister is on his feet.

The Hon. P. Malinauskas: He knows his eggs, though.

The Hon. K.J. MAHER: I thank the Hon. David Ridgway for his contribution on eggs—he does know his eggs. He knows his eggs very well, apparently. Minister Hamilton-Smith and I oversaw the signing of a joint venture agreement between Micromet and representatives from its joint venture partner, the Chinese company, Dadongwu.

Dadongwu is a partially state-owned industrial group from just south of Shanghai. The company has a wide range of business activities, including the construction of hotels and ports, manufacturing automotive alternators and water treatment technologies. The new joint venture agreement will open new markets in China for Micromet and is expected to generate 75 new manufacturing job opportunities in Adelaide and foreign direct investment of $2 million from the Chinese partner.

The state government is committed to delivering the best possible opportunities to support the growth of strong and sustainable manufacturing in this state. While Micromet has clearly benefited from the state government's trade mission to Shandong, the company has also benefited from the strong support from other policies that the state government provides to the manufacturing sector and the state more broadly.

Since November 2015, Micromet has used the services provided by SinoSA, which was visionarily set up by the then minister Gago as part of the state government's innovation and high technology industries support agency to assist the company to enter the Chinese markets and in its interactions with the Chinese company.

I am further pleased to inform the chamber that I have recently approved state government support of Micromet through the awarding of a $26,000 grant through the state government's Business Transformation Voucher Program, a program specifically designed to assist businesses to identify and address gaps in their capabilities to support their sustained and long-term growth. The funding support will be used by the company to develop a comprehensive marketing strategy to support the joint venture with Dadongwu.

The state government is committed to supporting innovative South Australian companies in expanding their business and we will continue to implement the policies required to ensure that South Australian industry has the best opportunity to expand into new and emerging global markets, creating increased economic activity for our state and meaningful employment for South Australian workers. I congratulate Micromet and its Chinese partner, Dadongwu, on their partnership and look forward to updating the chamber on the future success that this joint venture will have for this state.

SA WATER INFRASTRUCTURE

The Hon. J.A. DARLEY (14:59): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions in regard to pipe maintenance.

Leave granted.

The Hon. J.A. DARLEY: I understand that a number of years ago SA Water undertook a preventative maintenance program which included inspections of the pipe network, a register of the age and condition of the pipe network, and information pertaining to soil reactivity in areas across the state. My questions are:

1. Can the minister advise if SA Water still have a preventative maintenance program or if this has been replaced by a breakdown maintenance program?

2. Can the minister provide details as to whether SA Water still maintain a register for the age and condition of the pipe network and how often this is reviewed and updated?

3. What was the date of the last review of the pipe network, including pipes and pipe joints, in Campbelltown, Newton and Paradise?

4. When was the pipework originally laid?

5. Can the minister table the last review results?

6. Can the minister advise if SA Water conducts regular soil testing on soils that are known to be particularly reactive? If so, can the minister advise if the soil in Campbelltown, Newton and Paradise has been tested and, if so, the date of that test and the type of soil found, including the extent of expansion and contraction?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:01): I thank the honourable member for his most important questions. It was incredibly detailed, and some of it I will have to take on notice and come back with some answers for him, but I can put some general remarks on the record for him.

Over the past four years, 2011-12 to 2014-15, SA Water has spent $51.4 million per annum on average, I am advised, on direct routine maintenance repairs, including breakdowns to its infrastructure right across the state. This cost is directly attributable to maintenance activities, I am advised. Those activities are undertaken on individual assets and do not include the cost of operating, monitoring and managing those assets on a day-to-day basis.

In addition to the asset maintenance cost, SA Water also invests significant capital in the ongoing renewal of its infrastructure. Over the past three years, SA Water has invested on average $325 million per annum, I am advised, on the renewal and upgrade of its pipe networks, treatment plants, water storages and other related infrastructure. The 2014-15 spend, I am advised, has reached approximately $243 million.

The results of SA Water's Customer Engagement Program have determined that customers were satisfied with the level of service and reliability provided by SA Water. In terms of the condition and age of the network, SA's water pipe network is in good condition, I am advised. The average age of the water mains is 51 years, with those water mains in regional areas being slightly older than metropolitan Adelaide water mains on average.

The Australian water industry anticipates that water pipes will have useful lives, between an average of 80 and 150 years, depending on soil conditions, pipe material and construction standards. SA Water's pipe network is therefore relatively young by urban water industry standards. SA Water owns 27,078 kilometres of water mains with a gross replacement value of $7.3 billion, I am advised, as of June 2015, in order to supply water to 682,749 metered connections across the state. I assume that relates to the same date.

I can also say that in terms of comparing the failure rate of water mains of interstate providers, it does demonstrate how favourably SA Water performs in this regard. The National Performance Report compares the failure rate of water mains of utilities between comparative

interstate providers, that is, those with a customer base of over 100,000 customers. I am advised that for 2013-14, South Australia statewide had a failure rate of 11.5 failures per hundred kilometres per year and, in comparison, as I said earlier, Western Australia experienced 17.3 failures, Victoria experienced 32.2 failures and Sydney Water experienced 30 failures. I read into the record previously what those actual figures were and, again, they show that SA Water performs remarkably well in comparison to those other utilities.

I don't think you asked a question about wastewater mains. I will undertake to take those other detailed questions the honourable member asked and bring a response back to the chamber on his behalf.

ONKAPARINGA SES

The Hon. A.L. McLACHLAN (15:04): My question is for the Minister for Emergency Services. Is the minister aware of the longstanding issues in the Onkaparinga SES Unit, which I understand arise from member disputes with management, and can he confirm whether the membership in a vote on Monday night decided to wind up the unit? Further, can the minister assure the chamber that there will be no risk to life and property as a result of the actions of the membership of the Onkaparinga SES?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:04): I thank the honourable member for his important question. I am happy to confirm to the house that on Monday 7 March this year the Onkaparinga SES held a special meeting, and 17 members of the SES in Onkaparinga voted unanimously to disband the unit. I have been briefed by the chief officer of the SES, Mr Chris Beattie, on this matter and, while it is concerning, it is entirely an internal SES operational matter for the SES management to resolve.

I have been advised that alternative emergency response arrangements have been put in place to ensure ongoing community safety. The unit has been offline for almost two years, meaning that they have not been responding to calls for some time. The unit is closely integrated with the Onkaparinga Country Fire Service group. Many of the volunteers are members of both the SES and the CFS, and vehicles from both services are used to respond to emergencies in the area.

Volunteers requesting significant changes to SES operational arrangements, including a demand that they report through the CFS chain of command, have not been supported by SES management. Over the past two years, SES staff have worked closely with the CFS to develop new response plans to accommodate the requests for changes. Bespoke paging and response plans were put in place at the union's request, including a reduced response area.

I have been developing an increasing degree of awareness around the concerns that SES members have within the Onkaparinga Unit. It is disappointing that they have voted the way they have, to disband the unit, but the principal concern of this government is, of course, to ensure the ongoing safety of residents within the area who may be beneficiaries of SES services in the event that an emergency arises. I am thoroughly confident and have been satisfied that SES management has put in place alternative arrangements in order to be able to accommodate such a circumstance if it does arise.

CO-MANAGEMENT WORKSHOP

The Hon. J.M. GAZZOLA (15:07): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about the recent co-management workshop and the state government's plan to strengthen the co-management model?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:07): The honourable member is again right on the money. He obviously has sources wide and varied across the state to find out what is happening around the place and where I am up to.

On Wednesday 17 February, I had the very great pleasure of opening the second co-management workshop at Adelaide Zoo. This is the second time such a workshop has been held, involving representatives from all co-management boards and advisory committees, following the

inaugural workshop in 2014 to mark the 10th anniversary of co-management in South Australia. The co-management model in South Australia is an internationally recognised partnership between the state government and Aboriginal groups, designed to foster shared management of land.

It was first established in 2004 and now incorporates 12 co-managed parks across the state. Co-management recognises Aboriginal people as the original custodians of our land and acknowledges the importance of the customs and knowledge they have passed down through generations. Bringing together representatives of all co-management boards and advisory committees to discuss and exchange experiences and ideas helps to strengthen the co-management model. In the words of Mr Clem Lawrie, the deputy chair of the Nullarbor Parks Advisory Committee:

> It was a fantastic opportunity for different Traditional Owners to get together to discuss our vision for the future of our land in partnership with the government and community. What became apparent was how much land across South Australia we now manage in cooperation. This made me really happy.

It is also important to celebrate and share the experience and benefits of co-management with the wider public. As the traditional owners themselves expressed after the workshop, it is vital that we work together to showcase co-management, to change perceptions, to raise awareness and to ultimately benefit all parties by increasing knowledge of these activities. This is why, at the inaugural workshop in 2014, I am advised, we undertook to produce a booklet about co-management, explaining its benefits. That booklet, *Strong Country, Strong People*, was launched at the recent workshop.

The booklet combines people's stories of what co-management means to their communities with fantastically beautiful images of the people and landscapes of those co-managed areas. It is a wonderful celebration of co-management in our state. I would like to congratulate everybody involved in producing this impressive and useful resource which will be a great educational document for the wider community and I think particularly also for our schools.

In addition to each board and committee presenting on their experiences of co-management, the two-day workshop included sessions on improving communication between stakeholder groups, governance issues and ways in which Aboriginal communities can be involved in nature-based tourism opportunities, and the future of co-management and what it looks like. All participants agreed that it was important now to undertake wider community consultation and again a broader community support for a transition to Aboriginal-owned co-managed parks.

The state government is grateful for the robust partnerships that have developed over the last decade through co-management as it evolves. These have enabled us to take tangible steps towards reconciliation and involve Aboriginal communities with the government's priority of building the social and economic capacity and resilience of our regional communities. I would like to thank all those participants for their involvement in the workshop, especially those who have travelled some long distances to be there, and above all I would like to thank those involved in the co-management of our parks for their dedication to the success of our unique co-management model that enriches the lives of every South Australian.

SA WATER INFRASTRUCTURE

The Hon. R.L. BROKENSHIRE (15:11): I seek leave to make a brief explanation before asking the minister responsible for SA Water some questions regarding compensation and support.

Leave granted.

The Hon. R.L. BROKENSHIRE: What we have seen in the last few days has been obviously devastating for up to 40 property owners in the northern suburbs. The media have indicated that they are also now questioning and challenging just what is happening in SA Water when it comes to burst water mains and the care of the victims. SA Water again today in the media called these people 'customers', but they are not 'customers', they are victims. They are victims of flooding as a result of two or three possible scenarios regarding SA water pipelines—400 millimetre pipelines in this case running alongside one house in particular.

Both the minister and SA Water continue to say that under the current act they are not responsible for compensation and support to these victims unless it is proven that negligence has occurred. Clearly, that is unacceptable and it is a cop-out that was put into the act so that SA Water

and the government of the day can walk away from their responsibilities and leave these people in absolute despair. My questions therefore are:

1. Will the minister agree to bring the act into parliament so that a proper debate and restructuring of the act can occur to ensure that these victims are properly compensated as a result of, through no fault of their own, having their homes and their lives disrupted?

2. Can the minister assure the parliament that when the changeover occurred between United Water and the current outsource managers for SA Water of the day-to-day operations that there was not a dropping of the ball in relining pipes, maintaining pipes, replacing pipes and doing survey work on pipes and as a result now we are in catch-up?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:13): There are a number of things to be said in response to the honourable member's question for which I thank him. Of course, our immediate concern is with assisting those affected residents who are our customers—of course they are. The SA Water customer liaison team has been doorknocking properties today and will be working with residents and their insurers to ensure speedy assistance is provided where it is requested.

I reject outright the assertions made in the so-called explanation made by Hon. Mr Brokenshire. It is just a tissue, a fabrication that he uses to go out into the media and use as a platform for himself. Don't run down these people. Don't run these people down. They are incredibly resilient people. An unfortunate episode has happened in their lives and they just want to move on and get on with those lives and do the job of clean-up and get back into their homes. That is exactly what we are helping them with.

The first port of call of course is always with their private insurance companies. What the honourable member is supposedly proposing, if I am hearing him rightly, is that we should be bailing out private insurance companies that have taken the money of these residents who have booked in their insurance policies. The honourable member is here saying, 'We should be providing that relief instead of insurance companies.' He wants SA Water customers to pay more money to bail out private insurance companies. That's what he wants. I just think he has got the wrong end of the stick.

Our customers are, of course, the people we are trying to assist in this situation. We are working with them very closely and they are indeed working with their insurance companies, as I said. Two of the households I visited were very pleased with the actions of their insurance company in getting out so quickly, and the third household that I spoke to was very pleased ultimately that their insurance company came out that day as well.

It is important to understand that when a customer or an affected householder is impacted by these water mains bursts, the first response is to assure community safety. That is why there is sometimes the view that someone who may have reported a leak or a break hasn't seen someone in their street or in their driveway attending to it. It may well be because they are up at the mains, which could be one or two streets away, trying to shut down that mains in a way that means there is no further disruption to the service or, indeed, no further breaks further along that mains. It is important that we actually let people know that.

Coming to the issue of customers who may not be insured—and I have no information before me as yet as to that status; it may well be that everybody impacted has insurance, I don't yet know—as I said previously, if people find themselves in that position, we will not leave them in the lurch. We will make sure that we assist them as best we possibly can to get through this traumatic period in their lives, to clean out their homes as quickly as they possibly can, to get them reinstated so that they can go back into them.

NATIONAL WATER INITIATIVE

The Hon. T.J. STEPHENS (15:17): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question about the National Water Initiative.

Leave granted.

The Hon. T.J. STEPHENS: The very hardworking member for MacKillop has followed this issue quite closely. In consultation with the member for MacKillop, we are following the question that the minister handled last week regarding the National Water Initiative. The minister told the council:

> I don't know how much more public the honourable member thinks the NRM boards can be in terms of water management policies and their costs. They are in their NRM plans. The plans are consulted on with the local communities, those plans are informed by community desires and, in fact, they are reported on in those documents that the NRM produces.

The presiding member of the South East NRM Board was specifically asked for the information regarding the cost of planning and management incurred by the department both statewide and in the South-East at the public consultation meeting in Mount Gambier last December, as no such information was included in the draft plan which has been consulted on. His response was that, despite requesting that very information from the minister's department, no such information has been released from the department to the NRM boards. Given the public statement by Mr Frank Brennan, how does the minister reconcile this reality with his answer to the council on 25 February?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:18): I thank the honourable member for his most important question. I didn't hear all of it, of course, but if I am right in assuming—

The Hon. T.J. Stephens interjecting:

The Hon. I.K. HUNTER: Well, you are so softly spoken, Mr Stephens, a very gentle gentleman. But I think I might have got—

The Hon. D.W. Ridgway: You could have asked him to speak up instead of using it as an excuse not to answer the question.

The PRESIDENT: The minister has the floor.

The Hon. I.K. HUNTER: But I think I got the vibe of the question, Mr President, and I will riff on that, if I may. As I have said in this place before—that was a musical reference, Hon. Kyam Maher; the Hon. Mr Gazzola taught me that—water planning and management costs the state government more than $40 million statewide per annum—

An honourable member interjecting:

The Hon. I.K. HUNTER: I'm very interested in the theremin; I think it's a rather interesting instrument and I would like to see the Hon. Kyam Maher show us how it is played at some stage. The government is only seeking to recover $3.5 million from the NRM boards in 2015-16. In 2016-17 this increases to $6.8 million. As I said yesterday, I think, in this place, that is approximately 16 per cent of what we actually spend on water planning and management.

The amounts to be recovered from the NRM levies relate to water management activities required under the Natural Resources Management Act, including water licensing, compliance activities, science to support the development and management of water resources, development and review and amendment of water allocation plans and debt recovery, and are in line with the user-pays principle and a recommendation made jointly to me by NRM presiding members. The regions where most irrigation takes place—the South-East, the South Australian Murray-Darling Basin and the Adelaide and Mount Lofty Ranges—recover 95 per cent of this cost.

I have agreed with the NRM board presiding members that from 2016–17 water planning and management costs are to be apportioned in accordance with the recommendation, and will take into account where the water planning and management costs are incurred, using each NRM region's number of water licensees and total volume allocated as indicators of this business activity, as well as where the beneficiaries of sustainable water management reside, using the proportion of the state's population in each NRM region as an indicator.

Abiding by user-pays principles is the fairest way to recover the cost of these activities. Even with these principles, as I highlighted previously, we are still recovering only a very small portion of these costs from the beneficiaries. When you compare that to other states, we offer significant subsidies to our water users. When all water-related charges are taken into account, the NRM water

levy rates paid by irrigators in our major food and wine producing areas, such as the South-East and the South Australian Murray-Darling Basin, are much lower than our interstate competitors.

I do not know why honourable members in this chamber who ask questions about this so frequently disregard that; they absolutely disregard any direct comparison with industries interstate that are paying a fee that is exceptionally higher than what would be paid by irrigators in South Australia. They do not seem to be at all interested in that difference, in how this state government is protecting and looking after our irrigators and seeking to recover only partial costs—as I said, a very small component of the costs that are expended on water planning and management. We will continue to protect our irrigators and will continue to educate honourable members about how we are doing that.

Matters of Interest

WELCOME TO AUSTRALIA

The Hon. G.A. KANDELAARS (15:22): Today I rise to speak about Welcome to Australia, an organisation that was the brainchild of well-known South Australian community leader Brad Chilcott. I recently met Brad and Mohammad Al-Khafaji, the new CEO of Welcome to Australia. It is worth giving a brief outline of both Brad and Mohammad. Brad is the founder of Welcome to Australia, a national movement of people, communities and organisations committed to the vision of a welcoming and inclusive Australia known for its compassion, generosity and celebration of diversity.

Brad regularly challenges the status quo to advance social issues in the community by articulating his thoughts in the opinion pieces he publishes online to win the hearts and minds of the readers. Brad is also one of the most effective and successful campaigners in Australia, utilising innovative ways to raise awareness or to mobilise people in a short period of time. Brad is passionate about helping young people realise their full potential through friendship and positive encouragement. Brad also recently donated a kidney to his eight-year-old son Harrison.

Mohammad migrated to Australia with his family in 2003 at the age of 13 as a refugee from Iraq. For a number of years he and his family had lived in Iran and Syria. Mohammad is grateful for the opportunity Australia has given him since arriving in Adelaide, and he is keen to give back to the community that welcomed him and his family when they arrived. Mohammad studied for a Bachelor of Software Engineering at the University of Adelaide and has worked in the IT industry for a number of years.

Mohammad was recently appointed CEO of Welcome to Australia, making him the first full-time paid staff member of the national organisation. Mohammad hopes to use his skills to grow the organisation and make it sustainable. He is also the Youth Chair of the Federation of Ethnic Communities Council of Australia, the peak body representing ethnic communities in Australia.

Welcome to Australia exists to give to asylum seekers, refugees and other new arrivals a warm, dignified and positive welcome to Australia, and to give everyday Australians the opportunity to engage in a practical act of welcome that assists in building social cohesion and maintaining community health. Welcome to Australia began as a conversation between a number of individuals and not-for-profit organisations that believed there needed to be a positive voice in the public conversation around asylum-seeking refugees and multiculturalism that was not politically aligned or focused on policy, but rather invited Australians to join in dreaming of an Australia that could be.

Welcome to Australia's flagship event is Walk Together, held around October every year all around Australia, to celebrate the beautiful multicultural Australia we all share. I know that a number of members of this parliament participated in the Adelaide Walk Together last year, including the Premier, Jay Weatherill, and the Leader of the Opposition, Steven Marshall. Walk Together is a celebration of diversity and a loud declaration that thousands of Australians believe we can become a nation known for its compassion, generosity and welcome.

In 2015, 29 cities and regional centres participated in Walk Together and had more than 20,000 people uniting to say 'welcome'. Adelaide had the largest crowd, with more than 7,000 people marching. An initiative of Welcome Australia is The Welcome Centre located at Brompton. It provides support to asylum seekers, refugees and new arrivals through English classes, volunteer and work experience opportunities and emergency relief.

The Welcome Centre is a place of friendship, a place where everyday Australians and new migrants can meet and share stories. The Welcome Centre's main objective is to foster people-to-people relationships and to inspire and welcome people new to Australia. I congratulate Welcome to Australia, in particular Brad and Mohammad, for the work they have undertaken and are continuing to undertake to make refugees welcome in our community.

INTERNATIONAL WOMEN'S DAY

The Hon. J.S. LEE (15:27): During this week South Australia and the world celebrates International Women's Day. It is therefore with honour that I rise today to speak about International Women's Day. Yesterday, 8 March, is a global event that acknowledges women around the world. It is a day when women are recognised for their achievements from all walks of life.

International Women's Day is about celebration, reflection, advocacy and action. Since the first International Women's Day, which was observed for the first time in 1911, it has assumed a new global dimension for women. Thank you to many individuals and organisations for their outstanding effort in organising campaigns and initiatives around International Women's Day to pay tribute to women for their social, economic, cultural and political contributions to society, regardless of their ethnicity, religion, nationality or political persuasion.

It is my pleasure today to use this opportunity to highlight a few International Women's Day events in South Australia. Last Friday, 4 March 2016, 2,428 people, mainly women, many students and some men, all got up bright and early to attend the annual UN International Women's Day breakfast. It was great to see many of my parliamentary colleagues from across the political spectrum at the breakfast. The Adelaide breakfast was the biggest International Women's Day event held in the whole nation. This deserves big congratulations.

On Monday 7 March, I had the honour to represent the Liberal Party in joining Mel Bailey and Steph Key, member for Ashford, for the opening of 'Let us be up and doing', by the talented photographer Jennie Groom and her team. It is a public art piece celebrating South Australia's history of women in public life. It is most fitting, I thought, that former women politicians photos are displayed on the pillars of our Parliament House. I believe women are making a huge difference in our community and are definitely the pillars of strength for our society.

'Let us be up and doing' was a quote by Mary Lee, a remarkable suffragette who was instrumental in gaining South Australian women the right to vote for the first time This profound achievement made in 1894 was the first in Australia. The by-product of that movement established an act to allow women to stand for parliament, a first in the world. This act opened up opportunities for women to take on significant leadership roles in our society.

On the subject of many firsts, the Liberal Party was successful in supporting Joyce Steele, who, in 1959, was the first South Australian woman to be elected to the House of Assembly, and in the same year Jessie Cooper became the first woman to be elected to the Legislative Council. Through determination and hard-fought campaigns, these inspirational women have paved the way for many women in our state parliament today, including myself and the Hon. Tammy Franks.

It was so lovely yesterday to hear the President read out the letter by my wonderful friend and colleague the Hon. Michelle Lensink on International Women's Day. I congratulate Michelle on her many achievements, the leadership role she plays in parliament and for South Australia and now, as a first-time mother, juggling family life and taking multitasking to a new level.

This Friday, I am honoured to be invited as the guest speaker for the Fleurieu and Kangaroo Island Women's Community Awards. This event also celebrates International Women's Day and recognises the fabulous achievements of women in the region. Nominations have been received in the categories of most outstanding contribution in the local community in the areas of volunteer, sport, health, education and young female ambassador.

My esteemed colleague in the other place Michael Pengilly, member for Finniss, is co-hosting the event with the Victor Harbor VIEW club. VIEW is a nationwide women's organisation with 19,600 members. VIEW stands for Voice, Interests and Education of Women. It was established to give women a network of support and a platform to voice their views on issues of national concern.

Thank you, member for Finniss and councillor Leonie Fitzgerald of Yankalilla, for inviting me to be a guest speaker and organising this very full house event.

I very much look forward to celebrating the achievements of so many hardworking and inspiring women in the Fleurieu Peninsula and Kangaroo Island this Friday. In this week of International Women's Week, let us continue to advance the status of women in our community from all walks of life and around the world. Happy International Women's Day, week and month, if you like.

SA WATER

The Hon. R.L. BROKENSHIRE (15:32): I rise on this matter of interest to place on the public record my disappointment and frustration to the Minister for Sustainability, Environment and Conservation and Minister for Water. I am fairly thick-skinned these days, and you have to be when you keep getting responses that are half-baked, such as those we get from minister Hunter. The reality is that we have an obligation to ask questions, sometimes difficult questions, and in response the ministers have an obligation to answer the specifics of our questions. Unfortunately, that rarely happens with minister Hunter.

Today, when I asked minister Hunter questions about the people in the northern suburbs we all feel very sorry for and our hearts go out to—the 40 owners, and their families, of flooded homes—I asked those questions with genuine intent because those people are suffering hardship and I believe that what we have at the moment, with respect to the act and the attitude of SA Water, is totally unacceptable to those people. You would have thought that every effort should be made by SA Water and the government to support those people.

We have heard those people crying out in frustration. We know how difficult it is for them. There is quite an extensive story in the paper today about someone involved in another flood event from a burst mains with SA Water who seven weeks later is still not back in their own home. Those people should not be out of pocket. Even at home, and we do not like it, at times as an irrigator we get burst mains on our farm, and the fact is that we have to deal with them because we are the owner and we have to meet the cost and fix them—and that is the case with SA Water. If a main bursts between the meter and the home or within the home, that is a different situation and, clearly, it should then be the responsibility of the property owner and their insurance company.

For this minister to turn around and say that, because I advocate reconsidering what the act currently says and looking at the negligence issue of SA Water, what I am doing is advocating for an increase in costs to every water consumer is incorrect and unfair. That is not what I am advocating: what I am advocating is a fair go for these people.

The fact of the matter is that the reason our water costs are so high now is that this government has taken too much money out of SA Water over the years and actually artificially inflated the overall value of SA Water's assets. Therefore, every consumer is paying more money for water than they should, because of this government not managing its overall global budget but using SA Water to top up their budget at the expense of consumers.

Whether it is about NRM water levies or the issues around compensation, support, due care and consideration for these people we really feel sorry for in these affected homes at the moment, as a member of parliament, I will continue to ask the minister questions and I ask the minister, instead of just using spin and rhetoric from his advisers and from his departments and agencies, to actually listen to the questions.

There are normally only two or three questions at the end of an explanation. I ask the minister to listen to those questions and actually respond to the questions. I asked the minister whether or not they dropped the ball on pipeline maintenance and repair and replacement when they changed providers for the day-to-day management for a year. I know they did drop the ball. I asked that question and he just ignored it.

I do not think it is appropriate for ministers to ignore questions simply because it might embarrass them, or put the government under pressure or expose the facts. That is what question time is about. It should not be about Dorothy Dixers: it should be about questions without notice and we should be entitled to decent answers on behalf of our constituents.

I ask all ministers, and particularly minister Hunter, to listen for once to what we are trying to do in a fair, proper and democratic Westminster parliamentary system as legislative councillors: to put the ministers under scrutiny and have the ministers respond wherever possible with specific answers immediately and, if they do not, to bring back an answer to the chamber or to the individual member or both within a short period of time, not leaving questions unanswered from 2014 until today, as the Hon. John Darley had to cope with yesterday.

PASSENGERS IN HISTORY

The Hon. J.M. GAZZOLA (15:37): Along with the Hon. John Darley, the member for Hammond, Adrian Pederick, and the member for Adelaide, Rachel Sanderson, I recently attended the launch of Passengers in History, a new website and state-of-the-art app presented by the South Australian Maritime Museum. It is founded on the principles of unlocking the museum's data and making it easily accessible online. The website provides details of ships, ports and fellow passengers. In launching the website and the app, His Excellency the Governor, Mr Hieu Van Le, spoke of his experiences arriving in Australia.

Over a period of 25 years, volunteers at the Maritime Museum have been building a database populated with names of passengers landing in South Australia between 1836 and 1964, more than 328,000 of them, in fact. This database links to other online resources including Trove in the National Library of Australia, ship logs and passenger diaries and allows people to trawl deep into their family history. The database has been a popular exhibit at the museum for some time and has given many people a sense of their place in our shared history.

As of this year, history enthusiasts can now access this information from their personal computers and, by registering on the Passengers in History website, are able to share information both ways. People are now being invited to leave their own historical footprint by uploading stories and photographs of their ancestors and commenting on the museum's data to help edit the site, in essence becoming citizen historians.

To really understand the significance of this undertaking, one must acknowledge the phenomenal number of volunteer hours that went into the gathering and input of this data. This information took 25 years to collate. I understand former museum guide Mr Rob Lincoln built much of the database in his own time and has contributed an extraordinary number of hours in bringing this idea to fruition.

Thanks must also go to former museum curator Ms Kristy Kokegi, who is now their online programs manager. Her contribution has enabled the museum to post this data online at a very reasonable cost. I understand Mr Ian Nicholson compiled a complementary dataset taken from the Log of Logs which, two years and 600 pages later, was completely entered into the database by Ms Lesley Dunstan.

I am led to believe that the launch of this website has been met with great enthusiasm and that within three days it had over 3,000 online visitors and 118 registered users, 53 of whom contributed information or photographs to the site. I would like to send my sincere thanks to acting chief executive officer of History SA, Mr Kevin Jones, for having me at the event, and I wish him and his team all the very best with future endeavours in the Port.

FUKUSHIMA NUCLEAR DISASTER

The Hon. M.C. PARNELL (15:40): On Friday this week, it will be the fifth anniversary of the Fukushima nuclear disaster, and there are two stories from a fortnight ago that I think help us reflect on that sad occasion.

The first incident is one I referred to in parliament yesterday and it relates to a state government-commissioned telephone poll asking random South Australians various questions about nuclear issues. I am very grateful to an acquaintance of mine who had the foresight to turn on the recording machine as the researchers rang and asked the questions, and so I have an accurate transcript of what was asked.

Amongst the questions (some of which I think verge on push polling, but I will explore that issue on another date) was, 'The Fukushima event that took place in 2011, are you aware of it?' The

next question was, 'What is your understanding of the cause of the Fukushima event?' The third question was, 'What is your understanding of the consequences of the Fukushima event?' Fukushima is in the minds of some South Australians courtesy of a Department of the Premier and Cabinet telephone polling exercise.

The second issue I want to refer to is the removal of a big street sign in Fukushima. The sign was the work of a local real estate agent by the name of Yuji Ohnuma. He was in Fukushima on the day of the earthquake, tsunami and subsequent nuclear disaster. On the afternoon of the accident, he heard that the 'power plant had exploded', those were his words. His wife, Serina, was seven months pregnant at the time. Her baby was subsequently born healthy, but she still worries about her radiation exposure on that day.

The relevance of Mr Yuji Ohnuma is that as a school child he won the competition to design the slogan for nuclear energy. The slogan that he came up with was 'Nuclear energy: the energy of a bright future'. That slogan was put onto a sign at the entrance to the town on a large billboard, and he recalls being very proud of when that billboard was erected. It stretched across the road on the way to the train station and it was seen by everyone who passed by.

That sign last month was demolished. Mr Ohnuma campaigned for the sign to remain. He wanted it to serve as an ironic reminder to future generations of the dangers of nuclear power, but in a nation that was heavily invested in atomic energy the billboard was not ironic: it was just embarrassing. In fact, on 3 March the entire structure was demolished. Needless to say, Mr Ohnuma, who was once a passionate advocate of nuclear power, is now one of its most vocal opponents.

Many people are unaware of the Australian involvement in the Fukushima disaster. I think it is fairly well understood now that there is no dispute that Australian uranium was used in the Fukushima reactors. It is not a fact that is acknowledged by the mining companies, because they always claim commercial confidentiality, but the Australian Safeguards and Non-Proliferation Office has acknowledged:

> We can confirm that Australian obligated nuclear material was at the Fukushima Daiichi site and in each of the reactors—maybe five out of six, or it could have been all of them.

As for the origin of that Australian uranium, we know that in the past the Tokyo Electric Power Company (TEPCO) has been supplied with uranium from BHP's Olympic Dam mine and also from the Beverley mine in South Australia.

Whilst there is still controversy over the number of people who have died, and we know that there have been many suicides and many premature deaths, largely as a result of the evacuation, it is clear that the impact on that community has been horrendous. In fact, a milestone that was reached just recently in January was that the number of evacuees for the first time fell below 100,000. At a peak, 160,000 people were evacuated from the vicinity of the nuclear power plant. That number has now fallen to 100,000, but still there are some parts that will never be able to be lived in again. On the anniversary, I think it behoves us as South Australians to remember the role we played in the Fukushima disaster.

NORTHERN ECONOMIC PLAN

The Hon. R.I. LUCAS (15:46): We had the embarrassing and demeaning situation in question time today of the Leader of the Government in the Legislative Council not only making a paper plane for himself but launching a paper plane as part of his response to some difficult questions on the Northern Economic Plan. I think, as you know, the government has not had a very good record in terms of the quality of its leaders of government in recent times. The names of the Hon. Mr Finnigan and the Hon. Gail Gago spring readily to mind, and one would certainly hope that the Hon. Kyam Maher might at least have been able to lift himself above the performance of those two leaders of the government.

When you have the demeaning situation where a minister, a leader of the government, in South Australia has to stoop to making paper planes and launching paper planes—contrary to standing orders, I might say—in question time to try to get himself out of some difficult questions on the Northern Economic Plan, it is a sad indictment of the Hon. Mr Maher and this government.

The genesis of all this is the government's launch of the Northern Economic Plan. Clearly, everyone supports governments doing something about the challenging economic circumstances confronting the north as a result of the decision of Holden to leave South Australia, and to leave Australia. The much-vaunted aspect of the Northern Economic Plan was that it was going to create 15,000 new jobs in the northern area.

The simple question that has been put to the Hon. Mr Maher by me, and indeed by others, is: how was this 15,000 number developed and who developed it? The question was asked whether Treasury did it, because normally for these sorts of plans Treasury signs off on a job estimate. Regarding the Gillman plan, which was 6,000 jobs, or the resource plan, which was launched recently and which was for 5,000 jobs, there would have been some input either from Treasury or from the economic forecasting section of the Department of the Premier and Cabinet.

Were consultants brought in? The Hon. Mr Maher said no. He says quite clearly and explicitly that this 15,000 number was developed by the local mayors and himself. The embarrassing part for the minister is that Elizabeth Henson from the *Northern Messenger* actually went and spoke to the mayors. I do not have time in this contribution to again repeat their direct quotes, but one of them said that the first he saw of it was the night before it was launched, and another said he had not seen it until after it was actually launched.

Clearly, this 15,000 job number was developed either by the minister or one of the minister's spin doctors, or one of the government's spin doctors, in the Premier's department or elsewhere, to try to tart up the Northern Economic Plan and to try to give it some credibility, which without a job number it would not have.

It is correct to say that the mayors were saying there should be a job target but our question was: how did you arrive at 15,000 and what was the basis and who has developed the number? As I said, the minister wrongly asserted that this was a joint decision of his and the mayors, and his response today in playing with paper planes in Parliament House in question time did not obscure the fact he did not answer the question, 'Who actually developed the 15,000 job estimate?' given that the mayor said that they were not party to a decision to arrive at the 15,000 job number?

That is the question that remains unanswered and it is a genuine question, one that people are asking, because clearly someone has come up with this particular 15,000 job claim number included in the Northern Economic Plan, and no amount of paper plane playing by the Leader of the Government in the Legislative Council is going to obscure that fact.

So the pressure remains on the Leader of the Government and the minister in this particular area to eventually respond. It is not an issue that people are going to let rest; they will continue to persist in trying to establish where this 15,000 job estimate number has come from. What credibility can we place upon it in terms of whether or not this $24 million Northern Economic Plan will ever generate any jobs or whether it will generate 15,000 jobs? All I can say is that even the Leader of the Government's own colleagues in his party were shaking their heads in dismay when he started playing with paper planes in question time.

WOMEN IN PARLIAMENT

The Hon. G.E. GAGO (15:51): I am sure that there is no doubt in this chamber that I am passionate about women's roles in politics and in the broader community, and I am very proud that South Australia has been a leader nationally in terms of progression of women's rights, being the first state, as we know, to allow women to vote amongst a raft of other firsts and successes. I am also proud of the Labor Party's progression of women's rights. We now have an affirmative action policy in place to ensure 50 per cent representation of women from 2025 in all levels of the party. We had the first female Prime Minister of Australia and I am very honoured and proud to say that I had the privilege of being, I believe, the first female acting premier of South Australia—at least I am not able to find any records to the contrary.

This is not to say that Labor has fully succeeded in its journey to gender equity, and I reminded the government when I stepped down from cabinet in January this year that more work needed to be done in this space to achieve gender balance, not only in parliament but also in cabinet. Labor has a strong history of giving women the opportunity and the right to represent themselves.

Although the Liberal Fraser government originated the portfolio of minister assisting the Prime Minister in women's affairs, the portfolio was managed and overseen by men. What an appalling message to communicate to Australian men and women—that women's policy was finally important enough to have its own portfolio (well, sort of important enough), however, it needed to be supervised and managed by men. Men needed to remain in charge of women's matters.

It was only under the Hawke Labor government that women were finally given the right to represent the portfolio concerning women. While Labor has moved steadily forward in this area, the federal Liberals have only had short spasmodic episodes of a standalone minister for women, with I think Judi Moylan serving a year in the late nineties and Michaela Cash in September 2015. Labor, on the other hand, left the days of 'minister assisting' where they belonged and had a dedicated Minister for the Status of Women for the entirety of the Rudd/Gillard tenure.

In South Australia, the Hon. Anne Levy reports that she originated both the minister assisting the Premier in the status of women portfolio under Bannon, and later under Arnold she originated the ministry of the status of women. She also recounted that she believed that it was the first standalone ministry for the status of women in the nation in 1992. The South Australian Liberal Party thankfully did not follow their federal colleagues and they retained a Minister for the Status of Women position from the Brown government onwards.

I would like to congratulate the Hon. Jing Lee for her recent preselection for the 2018 Legislative Council ticket, however, I have to say I was disappointed to see that the Hon. Jing Lee was only given the fourth spot on the Liberal ticket and was not surprised to see male candidates taking the first, second and third positions. Her business credentials are the bread and butter of the Liberal ethos, and her skill and dedication in representing the people of South Australia (albeit a small glitch in question time today) is well acknowledged and well regarded. As I said, it is disappointing that she has been given the fourth spot as she is such a meritous candidate.

Labor seeks to end the double standards against women in public life. There is a fantastic satire Facebook page, 'Man who has it all', which twists phrases traditionally said about women to make the point that we have a long way to go. My personal favourite is, 'I genuinely don't have a problem with male candidates in elections, as long as they are put forward on merit alone.'

I have always put the support and mentorship of women and women's positions unapologetically in the foreground throughout my role as a member of parliament, and in my former roles in the union movement and as a nurse. I have had the honour and privilege of working with many fantastic women who have gone on to work tirelessly in all manner of causes. I have employed women whenever I could and supported and encouraged many women to set themselves career goals and advance themselves.

Recently I have been engaged with a mentoring program through the Labor Party, and I am thrilled to be working with a young woman who is engaged in student politics and studying journalism and international relations. As an employer I have always held the view that no matter what your position, you should leave with more than what you came with, whether that be skills development, further education attainment, stronger professional networks or merely greater confidence. I look forward to continuing to contribute to those efforts that work to ensure that all women have access to the same opportunities that are available to men and for women to be able to be the very best that they can be.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE: PARTIAL DEFENCE OF PROVOCATION

The Hon. G.A. KANDELAARS (15:57): I move:

That the interim report of the committee, on the review of the report of the committee into the partial defence of provocation, be noted.

On 1 May 2013, the Hon. Tammy Franks MLC introduced the Criminal Law Consolidation (Provocation) Amendment Bill 2013 into the Legislative Council. The bill proposed to amend the Criminal Law Consolidation Act 1935 by way of the insertion of a new section 11A to limit the partial defence of provocation (the provocation defence).

The provocation defence, if established, allows for a court to reduce a charge of murder to the offence of manslaughter. It is referred to as a 'partial defence' because it only lessens the charge and the potential consequences. By way of comparison, self-defence provides a complete defence to a charge of murder, entitling the accused to a full acquittal without any further penalty. The bill sought to address the possibility that a nonviolent homosexual advance could be pursued to establish a provocation defence, or what has often been termed the 'gay panic defence'.

On 30 October 2013, following debate in respect of the bill, the Legislative Council resolved that the bill would be withdrawn and referred to the Legislative Review Committee for inquiry and report pursuant to section 16(1)(a) of the Parliamentary Committees Act 1991. This resulted in the committee's initial inquiry into the partial defence of provocation.

The judgement of the South Australian Court of Criminal Appeal in Lindsay v The Queen was referred to in a number of submissions to the initial inquiry. The case involved an accused who had sought to establish a provocation defence following the killing of a homosexual after that male had made a homosexual advance to the accused. The judgement of the Hon. Justice Peek in Lindsay (with which the Hon. Chief Justice Kourakis agreed) observed that homosexuality is now largely accepted as part of contemporary Australian society and that it was no longer unlawful for consenting adults to engage in homosexual sexual activity. Consequently, Justice Peek did not allow a provocation defence to be put to the jury in the circumstances of Lindsay.

On 2 December 2014, the committee tabled the report of the Legislative Review Committee into the partial defence of provocation, which noted the observations of Justice Peek. On 6 May 2015, in the matter of Lindsay v The Queen, the High Court of Australia set aside the order of the South Australian Court of Criminal Appeal and ordered a new trial. The majority judgement of the High Court observed that there were a number of potential sources of provocation which should have resulted in the defence being left to the jury for consideration in the circumstances of Lindsay.

In particular, the High Court noted, for example, the fact that an offer was made to the appellant for sex in the appellant's home, and that it was also considered there may have been a further 'pungency' as a result of an offer of money for sex being made by a Caucasian man to an Aboriginal man in such circumstances. These matters were considered to extend beyond the relevance of the homosexual advance.

On 13 May 2015, on a motion of the Legislative Council and as a matter of urgency, the Legislative Review Committee reviewed its initial report into the partial defence of provocation. The committee wrote to the individuals and organisations who made submissions to the initial inquiry, as well as to the Aboriginal Legal Rights Movement Incorporated and the South Australian Law Reform Institute, seeking further comment.

In response to the committee, no parties changed their views as expressed to the initial inquiry. However, the committee resolved that it would not be prudent to make further recommendations and findings until the resolution of the process of the retrial of Mr Lindsay on a charge of the murder of Mr Andrew Negre. The second retrial is currently scheduled to commence on Monday 15 March 2016. I commend the interim report to the council.

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

Bills

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (RECOGNITION OF SAME SEX MARITAL STATUS) AMENDMENT BILL

Introduction and First Reading

The Hon. T.A. FRANKS (16:03): Obtained leave and introduced a bill for an act to amend the Births, Deaths and Marriages Registration Act 1996. Read a first time.

Second Reading

The Hon. T.A. FRANKS (16:04): I move:

That this bill be now read a second time.

I start with some fine words to introduce this bill:

> What happened to Marco and David is a classic example of the reason why we need marriage equality in this country. It's not just about the legal issues like certificates, it's about how people treat each other.

Those are the words of our Premier Jay Weatherill posted online on 22 January this year. He goes on to say:

> You may have heard the story of David Bulmer-Rizzi from Britain, who passed away in Adelaide recently while honeymooning with his husband Marco. Unfortunately in this case we saw Marco treated with disrespect when he simply wanted to make arrangements for the death of somebody he loved. Such discrimination is a disgrace, and I can assure you that I am committed to removing discrimination in South Australia's legislation and will continue to advocate for marriage equality at a national level.

I agree with every single one of those words from our Premier. What I do not agree with is continuing to make these people wait for that respect and for that equality. That is why today, in concert with the member for Unley in the other place, I introduce the Births, Deaths and Marriages Registration (Recognition of Same Sex Marital Status) Amendment Bill. I note that the bill is very simple. I also note that, when it comes to legislating on the basis of gender identity and sexuality in this state, even these simple bills seem to meet significant obstacles.

However, this bill simply seeks to recognise overseas same-sex marriage with respect to recording of that marital status on the death certificate of a spouse in the case of their death. The application of this bill applies to individuals who have been married abroad on overseas soil, regardless of that foreign country being the place of their domicile or not. This includes not just tourists who come to South Australia on honeymoon but also South Australians who are forced to go overseas to marry, many of whom are taking advantage of not just skipping across the ditch to walk down the aisle in our closest neighbour to our south, New Zealand, but also marrying in British embassies in the Eastern States.

This bill puts South Australia on a par with New South Wales, Queensland and Tasmania and, most recently, Victoria, all of which have reformed their laws to recognise same-sex marriages performed overseas within those particular states' legislative frameworks. We are, of course, debating this today because a man lost his partner, his husband, while on holiday in Adelaide. David Bulmer-Rizzi tragically died while on holiday in South Australia with his husband, Marco.

When the authorities here refused to recognise that same-sex marriage, it actually caused worldwide contempt. Appropriately, our Premier apologised, not only publicly but personally. The Premier also promised to put measures in place to prevent this from ever happening again. I must comment at this point that in fact the generosity of Marco Bulmer-Rizzi shone through in the reporting of the fact that David donated his organs so that their love could live on, and no doubt those organs went on to benefit people in this state.

David's life was cruelly cut short. In those days after David's death, Marco faced the most horrific case of 'the computer says no' that I could imagine. For the computer and the technology of our state to be unable to accommodate the fact that Marco and David had been married must have been like rubbing salt into very deep wounds.

No doubt they had made plans for many months to come to Australia on what was meant to be part of the happiest days of their lives, celebrating their marriage and honeymooning in Australia. If those British citizens had had such an unfortunate occurrence not in South Australia but in one of the other states where overseas same-sex marriages are recognised, the salt rubbed into those wounds may not have created such a scar.

I stand up today not just for Marco and David but, of course, for South Australians. One in particular that I would like to pay tribute to is a man with whom the member for Unley, David Pisoni, and I stood with yesterday at a press conference—that is, Andrew Birtwistle-Smith, who lost his husband, Christopher, his husband of 11 years. They were married in Canada 11 years ago. Mr Birtwistle-Smith in this past year lost his husband, Christopher, and has had to go through this process of the computer saying no.

In his case, there is still a Coroner's inquiry. For Mr Birtwistle-Smith, at 44, with the death of his former spouse, Christopher, at 52, coming at such a young age and unexpectedly still being the subject of a coronial inquiry, at this stage the death certificate of his former spouse states 'unknown'. I hope that by the time the death certificate is formally finalised we will be able to recognise the

marriage of Andrew and Christopher in the way that we should rightly recognise the marriage of Marco and David.

I bring this bill forward with the support of South Australians for Marriage Equality, the local chapter of Australians for Marriage Equality, who approached me and some of my colleagues, and I have to agree with them that, while they were heartened by the Premier's words in January, they are tired of waiting. They are tired of waiting for events such as deaths to lead to legislative change in this place.

We know to our shame as a state that it was the death of Dr George Duncan that finally saw legislative reform and that fortunately saw us as the first state to decriminalise homosexuality in Australia. That is a proud achievement for this state but deaths should not be what we wait for until we legislate for equality, for human rights, for human dignity and respect.

I refer to the South Australians for Marriage Equality letter to me, dated 3 March, regarding this proposed bill which states:

> We strongly support this Bill.
>
> As you know, David Bulmer-Rizzi died on Saturday 9 January 2016 while on holiday with his husband Marco in Adelaide. Marco and David were legally married under British law and were honeymooning in South Australia when David tragically died in an accident.
>
> Following the accident, Marco was attending to the necessary affairs when he encountered a bizarre aspect of the South Australian death certificate regime. He was required to record on the death certificate either 'married' or 'not married', but the view taken by the relevant department was that this did not include a same-sex marriage legally recognised overseas.
>
> As you can imagine it has caused Marco and his family a great deal of pain to have to suffer the indignity of recording 'not married' on the death certificate. It is a great shame that having waited so long for the opportunity to have his love recognised in another country, Marco was faced with the prospect of his husband's death forever being recorded without that recognition because he happened to die in South Australia rather than one of the numerous other Australian states which recognised overseas same-sex marriages.
>
> This was not an isolated incident. We are in contact with other South Australians who have suffered the same indignity when obtaining a death certificate but they have not raised the issue publicly because they have felt ashamed or that they are helpless to change the law.
>
> Your Bill will ensure that the law provides explicitly for recording of overseas same-sex marriages on death certificates in order to ensure that such a situation never rises again.
>
> This is an important step towards what should be the ultimate goal, namely full recognition of overseas same-sex marriages and marriage equality quality reform in Australia generally.
>
> We support this development and all of your efforts towards respect for LGBTIQ couples in the past and going forward.

The letter is signed by Harley Schumann and Michelle Rodgers, who are the South Australian co-conveners for Australian Marriage Equality.

In conclusion, I would like to draw the council's attention to the words of another couple. Dr Liz Coates and Dr Kim Petersen have been in a committed relationship since 2000 and formalised that with a commitment ceremony here in Adelaide in 2002. They were able to be surrounded by family and friends in Adelaide, with Liz's son being the best man. Over the next three years, they dreamed of legalising their relationship and getting married. In 2005, they travelled to Montreal in Canada and were legally married at the Palace of Justice. This was an amazing day for both of them and, this time, Liz's eldest son, who lives in Montreal, was best man. They write:

> For the past 10 years, travelling has been eventful, with recognition of our status in some countries but not others. The best experience during these times was at immigration in the United States of America in 2015 replying we are married when questioned as to what relationship we were to each other. The immigration officer then treated us respectfully as a devoted couple.

Their letter continues:

> How disappointing then to return home and not have the same respect and acceptance shown towards us. How much worse it is to know if one of us were to die that we could not be registered on the death certificate in this state as a spouse. How much worse that property cannot be jointly held without resorting to expensive legal contracts, unlike a heterosexual marriage.

But most of all we want our friends and family here to know that we took our relationship very seriously, enough to commit to each other under Canadian law. Recognition of our marriage in [South Australia] would help achieve that.

Kind regards,

Kim and Liz

I do not want to see Kim and Liz have to face a tragedy to have the law reformed to accord them equality. Let us not keep these people waiting any longer: they have waited long enough. With those few words, I commend the bill to the council.

Debate adjourned on motion of Hon. G.A. Kandelaars.

Motions

AUSTRALIA CHINA FRIENDSHIP SOCIETY

The Hon. J.S. LEE (16:18): I move:

That this council—

1. Congratulates the Australia China Friendship Society for celebrating its 50th anniversary in 2016;
2. Acknowledges the significant work and commitment of the Australia China Friendship Society's Committee and volunteers, past and present, who continuously work towards building and promoting a friendship between the peoples of Australia and China; and
3. Acknowledges the importance of their establishment and the society's attempts at bringing to the Australian public a greater knowledge and understanding of China's rich cultural heritage.

It is an honour for me to rise today to move a motion to congratulate the South Australian branch of the Australia China Friendship Society on celebrating its 50th anniversary.

The society celebrated its 50th anniversary on Thursday 25 February 2016 at the very popular Chinese restaurant, Ming's Palace. I was honoured to represent the Leader of the Opposition, Steven Marshall, at the 50th anniversary dinner and very pleased to be joined by my parliamentary colleagues, the Hon. John Dawkins, the member for Hammond in the other place, Adrian Pederick, as well as the federal member for Barker, Tony Pasin.

Other dignitaries supporting the event included the Governor of South Australia His Excellency, the Hon. Hieu Van Le, and Mrs Lan Le, minister Zoe Bettison and also Dr Ross Gwyther, National President of the Australia China Friendship Society. I would like to acknowledge and place on the record special thanks to the 2016 executive committee members and also past presidents and life members.

The 2016 executive president is June Phillips; the vice president is Ann Ferguson OAM, who is also the Mayor of Mount Barker; the vice president is Chris Mutton; the secretary is Graham Bennett; Helen Bannock, Shane Strudwick and Daniel Ong are committee members; the tour secretary is Pat O'Riley; the past president and a life member is Mike Willis; and the past national president and a life member is Geoffrey Stillwell.

Just for the record for this motion, in terms of a brief history of the Australia China Friendship Society, the national body was actually established 65 years ago, but the South Australian branch began 50 years ago. Regular cultural exchanges and promotion of the Chinese language learning is a commonplace now, but, as you would imagine, it was certainly not a commonplace back then when it was first established.

It had its very humble beginning in an era where things were almost beyond reach and there were lots of challenges. The pioneers of the time were ostracised and even persecuted for their beliefs in establishing a friendship with China, but that did not stop the society in terms of furthering their movement and helping their members to extend and strengthen cultural trade and peaceful relationships with China and also to seek Australia's diplomatic recognition of the government of the People's Republic of China at the time.

Despite the organisation's earlier development, things moved really slowly in South Australia. In 1966, the founding meeting of the SA branch of the Friendship Society was held at the home of founder David Caust. The core of the branch became the pioneers of setting it up and the founding

members included the McCaffreys, Roy Baynes and Marj Johnston. David Caust was the first president and Lil McCaffrey was the first secretary and treasurer.

Dr David Caust was an Adelaide GP and the first South Australian president of the society, and as a general practitioner he would actually use his surgery waiting rooms at Plympton as a place for meetings. He developed a love of Chinese books and magazines as well. When he passed away, sadly and tragically at the age of 46 in 1968, his legacy was continued by the other members of the committee because of his love for Chinese books and magazines. After he passed away, Charlie McCaffrey set up The East Bookshop in 1969. Charlie contacted China's state book distribution agency, China International Book Trading Corporation, about opening a shop—and there is correspondence on the matter between 1968 and 1969.

Back then it was the Chinese cultural revolution. To be able to get those books into Australia was something very challenging, but they were able to do so. In the mid-1990s, The East Bookshop was moved to Gouger Street, near Adelaide's Chinatown. I have had strong connections with this particular bookshop because as a young teenager and in my early 20s I would go to the bookshop as a customer. Mike Willis, in his speech at the anniversary dinner, actually remembered me. Often he would see me during Chinese new year in Chinatown. I would be wearing a Chinese jacket with my pigtails, and he remembers those times.

I was a good customer, because for years I would go to the shop and buy lots of books, magazines and handicrafts. I remember we spoke during a Chinese new year back then, when Mike had this brilliant idea of riding a trishaw across Chinatown on Moonta Street. He wanted a young woman wearing a costume and with pigtails to be sitting on the trishaw as part of a documentary film. Believe it or not, I was one of those models. To think that after all these years I have become a member of parliament and the Australia China Friendship Society is celebrating its 50th anniversary and I have had that strong connection with the society is quite a remarkable story.

Sadly, after nearly 40 years of operation, the bookshop did close because there was not enough patronage and it was quite difficult to manage with volunteers. Therefore, I was quite sad that it did close, that it did not continue. Nevertheless, in the 1970s the branch membership of the Australia China Friendship Society in South Australia actually grew very steadily. Lesley Caust, David and Tess' daughter, was one of these young people who furthered the movement with the growth of the branch.

The question of a diplomatic relationship was resolved at the end of 1972, although the branch was still regarded with suspicion in some quarters. Executive and general meetings and the names of the movers and the seconders of the motions at meetings held by the society were not recorded in the minutes for fear that this information would fall into the hands of ASIO. At the time, it was even one of the few organisations to be deemed worthy of continued police surveillance by Justice White in the 1974 report on the activities of the state police special branch. Nevertheless, it did survive and, even though at the time it was difficult, Roy Baynes OA and Sir Walter Crocker continued to work to ensure the society and the association continued to build friendship between South Australia and China.

I would like to make some mention of Roy's work, Roy Baynes OA, and of Sir Walter Crocker. Sir Walter Crocker was a distinguished former diplomat who had himself favoured the granting of diplomatic recognition to China at a much earlier date and had much to do with recommending Roy Baynes for the medal of the Order of Australia for his services to international relations. Sir Walter assisted the society in a number of ways, and for a time was a sort of unofficial patron of the society.

In 1977, the Australia China Friendship Society of South Australia was approached by the Chinese in China to select from among our members a number of teachers to teach English in China. As I said earlier, it is commonplace today to send teachers overseas to China, but it was not then. It was a new phenomenon, because in 1977 the Chinese wanted teachers who both understood China's political and social system and would teach for two years while managing the culture shock of living there.

Eventually, they sent eight teachers to China at one time. It was really a big effort, an enormous effort from a small membership base in South Australia. Peter Tretheway was one of those teachers, and he was based in Xi'an. It was one of the biggest projects, and he wrote to the society

in South Australia requesting help to get books donated and sent to China. What followed, from about 1979 to 1983, was simply a humungous effort, particularly on the part of Roy Baynes, whose garage became the collection point for thousands of books at the time.

Roy was hammering nails into tea chests which would then be loaded by the members onto the Chinese grain ships on their occasional visits to Port Adelaide. One ship, the *Luzhou*, took 67 tea chests containing 15,000 books in one go, all free of charge, destined for various institutions throughout China. By the time they ceased the collection of books, more than a quarter of a million volumes had been sent to China. This was all done between 1977 and 1983, and it was pretty remarkable.

I also want to talk about the language classes and tours. Two of the core services the society offers to its members and to the general public are tours of China and language classes. The Australia China Friendship Society is the oldest China tour operator, and for a long period of time it was the only China tour operator. In South Australia, both the tour operations and the language classes owe much to the efforts of the branch secretary, Barbara Wahlstorm. Language classes continue to operate today through Helen and Graham Bennett's good organisation, and the tours have the added feature of inbound tours of Australia arranged for Chinese travel groups.

We talk about the ties between Shandong and South Australia celebrating their 30th anniversary this year, but the ties with Shandong actually started a long time ago. In 1986, there was a further important development when a delegation from the state branch visited Shandong Province. Members of the delegation, Jeff Emmel in particular, were largely responsible for putting in place the series of steps that led to South Australia and Shandong becoming sister states.

A presentation in Adelaide by a Chinese delegation was then made through premier Dean Brown, who in 1986 organised a celebratory banner marking the establishment of the Shandong-South Australia relationship. The Australia China Friendship Society of South Australia was the main organiser which established this particular relationship in terms of the delegation coming here back then.

Other special projects worth mentioning as part of the 50th anniversary of the South Australia branch include the following: the South Australia branch always contributed to a national cause for funds to help alleviate flooding in China or in support of projects, such as the industrial cooperatives (Gongye) in China, and a visit by Chinese secondary students to Aberfoyle Park school organised by the society in 1994 saw a donation made to Sanhe Primary School near Zouping in Shandong Province. China had recognised the problem of the poverty in many rural schools and had responded by initiating Project Hope, under whose auspices money was collected and distributed to schools in need.

Two years later a second South Australian school group organised by the society made the first of a number of contributions to the Zouping School for Deaf Mutes. Eventually some $10,000 would be raised by the South Australian branch and channelled to this school. When the school eventually succeeded in an ambitious rebuilding program, the fundraising effort by the society in South Australia was directed towards the Charles Foundation and its work for mainly the Yi nationality minority children's group in Sichuan Province's Liangshan Mountains.

In the first quarter of 2004, the society mounted a major display of its own history and activity at the South Australian Migration Museum. So much history and a lot of achievement is made through this particular society. Michael Willis, the past president of the SA branch said in his speech that occasionally the question is raised as to whether the society has served its purpose. He felt very strongly that there was much work to be done but that it is the first society, the first association, of such longevity that it has really paved the way now for so many Australian-Chinese organisations and associations to be set up in South Australia. They ought to be congratulated on their work in so many ways.

The branch has continued to foster and promote an understanding of Chinese society as well as promote South Australia to China as we move forward. With all the remarks that I have made and the remarkable history and the work the society has done, I think this motion needs to be recognised by members of parliament. With those words I commend the motion to the chamber.

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

CARNEVALE ITALIAN FESTIVAL

The Hon. J.S. LEE (16:37): I move:

That this council—

1. Congratulates the Carnevale Italian festival for celebrating its 40th anniversary in 2016;
2. Acknowledges the significant work and commitment of the Carnevale Italian Festival Committee and volunteers, past and present, for continuously showcasing the vibrant and energetic Italian culture through the festival; and
3. Acknowledges the importance of their establishment and the work it has done over the last 40 years in the promotion and preservation of Italian heritage and, in doing so, enriching the multicultural landscape of South Australia.

Today I am honoured to convey my heartfelt congratulations to the Italian festival, Carnevale, on celebrating its 40th anniversary. Many people believe that life starts at 40, so I say that a happy 40th is probably a good time to have lots of fun with the Italian community. The Carnevale Italian festival is a truly unique event, bringing together the very best of everything that is Italian. There is no other event in Australia that has enjoyed such a sustained success over the past 40 years.

Steven Marshall, the state Liberal leader, in his congratulatory remarks at the Carnevale said that the Carnevale has come to life in one of Adelaide's largest venues, the Adelaide Showgrounds, and this is a credit to the army of dedicated volunteers and organisers who keep making this event bigger and better. What I love most about Carnevale is the atmosphere. It is just like being in Little Italy. People from all walks of life attend this festival to learn about the Italian culture and enjoy everything it has to offer.

The 40th anniversary of Carnevale is a groundbreaking event and an important step and template in recognising our state and its cultural diversity. Italians have played a great part in the development of South Australia from the time of the arrival of its first Italian migrant, Antonio Gianni in 1839. The manager of the Carnevale, Eugene Ragghianti, actually mentioned that our forebears would be surprised at how Australia, originally an Anglo-Saxon Celtic society, has embraced the Italian way of life, from pasta to opera, from cannelloni to cappuccino, and from fashion to Ferrari. These elements of our Italian heritage are now very much part of the mosaic of our lives here today and we are so much richer for it.

I would also like to mention the Co-ordinating Italian Committee Inc. and pay it tribute in terms of its remarkable achievements. With all the work they have done they have been remarkable in terms of organising such a fantastic and iconic festival for South Australia. I think this year, in particular, they have actually attracted more than 25,000 people over the weekend. The food is economical and traditional; from tripe to quail, a dreamy seafood risotto or arancini balls or spicy sausages, Carnevale has served up sumptuous Italian delights from across many regions for decades in Adelaide.

I would like to pay tribute to some regional Italian clubs as well: the Arena Community Club, Bene Aged Care, the Calabria Sports and Social Club, the Campania Sports and Social Club, La Cucina Veneziana, the Lions Club of Adelaide Italian, the Rotary Club of Campbelltown, and the Society of Saint Hilarion. These clubs contributed to providing all the food and exciting menus for Carnevale.

A number of VIP guests attended the celebration, including His Excellency the Governor of South Australia, the Hon. Hieu van Le, and Mrs Lan Le, the new Consul of Italy in South Australia Ms Roberta Ronzitti, and His Excellency the Ambassador of Italy, Pier Francesco Zazo. We also had the Hon. Marco Fedi, a member of the Italian parliament, joining us this year. There was the Premier of course, and we had representation from the Liberal Party. I believe the Hon. John Gazzola may have been there; I may have spotted him from afar.

The Liberal Party was well represented. The Leader of the Opposition, Steven Marshall, gave a fantastic speech. He spoke Italian and, funnily enough, he was the only one who did; the Italian consul did not actually speak Italian, but Steven Marshall did at the opening ceremony, which was pretty fantastic. Other members of parliament from my side who joined us were the member for Morialta John Gardner; the member for Unley, David Pisoni; the member for Adelaide. Rachel

Sanderson; the member for Hartley, Vincent Tarzia; and the federal member for Sturt, the Hon. Christopher Pyne. I believe David Colovic, the federal candidate for the seat of Adelaide, was also there. As I mentioned before, the Premier also attended, along with minister Zoe Bettison and other parliamentary colleagues.

Carnevale is not just about the food or the various different activities. One of the very special programs it promotes I would like to mention is the involvement of many different schools. School participation in Carnevale is a very significant and much loved part of the festival's activities.

Some of the schools that participated included All Saints Catholic Primary School, Charles Campbell College, Dante Alighieri Society, East Torrens Primary School, Mary MacKillop College, Mount Carmel College, Norwood Primary School, Rosary Parish School, Rostrevor College, School of Languages, Star of the Sea Primary School, St David's Parish School, St Joseph's Payneham Parish School, St Joseph's Renmark Parish School, St Mary's College, St Michael's College, St Monica's Parish School, St Therese's Parish School and Tenison Woods Catholic School, Mount Gambier. We can see that it is not just about the city metropolitan schools but includes all the other regional schools as well that promote the Italian culture and language being recognised. They need to be congratulated.

I take this opportunity to thank also the founders, past and present presidents and committee members, together with their families, for providing the vision, sense of pride and resources to serve the South Australian community for over 40 years. In particular, I highlight the following leaders within the Carnevale and the Italian committee: Mr Angelo-Raffaele Fantasia, President of the Coordinating Italian Committee; Vini Ciccarello, the Carnevale chair; and, Eugene Ragghianti, Carnevale and Special Events Manager. I congratulate them for their tireless efforts to ensure that everything runs smoothly.

I acknowledge all the armies of volunteers, all the clubs and everyone who put in so much effort. I thank also all the sponsors, San Remo pasta being one of the major sponsors. At this point I also want to congratulate the Campania Club on being able to achieve their target of raising $100,000 towards the Benevento Flood Relief fundraiser. They were able to achieve that $100,000 target through community support, which is marvellous.

I congratulate the Carnevale Italian festival, celebrating its 40th anniversary, and acknowledge all the significant work and commitment of the Italian festival committee and volunteers, and recognise the Italian community playing a significant role in making an economic, social and cultural contribution to South Australia. With those few words, I commend the motion to the chamber.

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

Parliamentary Committees

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION: RIVERLAND VISIT

Adjourned debate on motion of the Hon. G.A. Kandelaars:

That the report of the committee, on the committee's regional visit to the Riverland, be noted.

(Continued from 24 February 2016.)

Motion carried.

Motions

ROAD TRAFFIC ACT

Orders of the Day, Private Business, No. 22: Hon. G.A. Kandelaars to move:

That the regulations under the Road Traffic Act 1961 concerning road rules—ancillary and miscellaneous provisions, made on 8 October 2015 and laid on the table of this council on 13 October 2015, be disallowed.

The Hon. G.A. KANDELAARS (16:49): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

ROAD TRAFFIC ACT

Orders of the Day, Private Business, No. 23: Hon. G.A. Kandelaars to move:

That the miscellaneous regulations under the Road Traffic Act 1961, made on 8 October 2015 and laid on the table of this council on 13 October 2015, be disallowed.

The Hon. G.A. KANDELAARS (16:49): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

MOTOR VEHICLES ACT

Orders of the Day, Private Business, No. 24: Hon. G.A. Kandelaars to move:

That the regulations made under the Motor Vehicles Act 1959 concerning demerit points, made on 8 October 2015 and laid on the table of this council on 13 October 2015, be disallowed.

The Hon. G.A. KANDELAARS (16:49): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

ROAD TRAFFIC ACT

Orders of the Day, Private Business, No. 26: Hon. D.W. Ridgway to move:

That the regulations under the Road Traffic Act 1961 concerning road rules—ancillary and miscellaneous provisions, made on 8 October 2015 and laid on the table of this council on 13 October 2015, be disallowed.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:50): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

MOTOR VEHICLES ACT

Orders of the Day, Private Business, No. 27: Hon. D.W. Ridgway to move:

That the regulations under the Motor Vehicles Act 1959 concerning demerit points, made on 8 October 2015 and laid on the table of this council on 13 October 2015, be disallowed.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:50): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

ROAD TRAFFIC ACT

Orders of the Day, Private Business, No. 28: Hon. D.W. Ridgway to move:

That the miscellaneous regulations under the Road Traffic Act 1961, made on 8 October 2015 and laid on the table of this council on 13 October 2015, be disallowed.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:50): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

Bills

STATUTES AMENDMENT (PUBLIC SECTOR AUDIT) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 September 2015.)

The Hon. G.E. GAGO (16:51): It is the position of the government that we not support the Statutes Amendment (Public Sector Audit) Bill 2015 which proposes to change both the Public Finance and Audit Act 1987 and the Public Sector Act 2009.

The reasons expressed by the Hon. John Darley MLC for the bill relate to supposed restrictions on the Auditor-General's remit under the Public Finance and Audit Act 1987. The act already requires the Auditor-General to express an opinion on the controls exercised by an agency in relation to the expenditure of money, and states that he can report on any matter that should or, in his opinion, be brought to the attention of the parliament and government. This does not support the Hon. John Darley's position that there are restrictions on the Auditor-General's remit.

There is also a mandate for the Auditor-General to examine the efficiency and economy with which a public authority uses its resources in relation to other jurisdictions. It is noted that the mandated provisions for performance type audits contained within other state and territory auditor-generals' enabling act are broadly consistent with the existing provisions of the Public Finance and Audit Act 1987. Further, we are not aware of any current concerns raised by the Auditor-General in relation to his powers or requests to make any changes to the Public Finance and Audit Act 1987 in relation to that.

The proposed amendments to the Public Sector Act 2009 are also, in the government's view, unnecessary. The current framework for chief executives to lead and manage an organisation and its resources, including efficiency dividends in line with the government's priorities, is sufficient, we believe, for the good order and efficient running of the public sector.

Further, the requirement in the amendments to have chief executives undertake a full review of all their agency's activities at the same time, over a six-month period, duplicates existing processes and is likely to be disruptive and costly, which is entirely opposite to the supposed purpose of the amendment. As a result, we do not see any benefits to be gained from the proposed amendments to the Public Sector Act as being proposed by the Hon. John Darley, and it is for these reasons that the government opposes this bill.

The Hon. R.I. LUCAS (16:53): I rise on behalf of Liberal members to indicate that we will be supporting the second reading of the Statutes Amendment (Public Sector Audit) Bill. However, I will outline some significant concerns with the bill as it is currently drafted, and I have indicated to the mover that should the mover proceed to the third reading stage today, then the Liberal Party would not support a third reading of the public sector audit bill today.

The genesis of this has been a consistent position that the Hon. Mr Darley has adopted at the Budget and Finance Committee, for which I have had much admiration. He has asked a relatively simple question of virtually all chief executives who have come before the Budget and Finance Committee as to, in essence, whether they have done a root-and-branch operational audit of all their expenditure. What does that mean?

Put simply, the Hon. Mr Darley has been saying that he is personally not supportive of a model of expenditure reduction that works on the basis of the efficiency audit approach that is applied equally across all departments and agencies or applied across most departments and agencies. This government would now say that, in recent years, police and some aspects of health expenditure might have been excluded from some of the all-encompassing efficiency audits that nevertheless apply to all other departments and agencies.

As I said, I personally have considerable sympathy for the position the Hon. Mr Darley has put and the principle behind his questions before Budget and Finance and the elements of the drafting of this bill. The Hon. Mr Darley is saying that governments, ultimately, should be looking right across the board at what functions they are currently funding and, in having to make the difficult decisions of making budget cuts, should decide which functions are either of no priority or, more likely, lowest priority.

They should reduce the expenditure on that particular function and then have available expenditure for higher priorities or new priorities for governments in terms of public funding, rather than, as I said, applying the efficiency audit model of 1 per cent or 2 per cent across the board in terms of all the existing functions of that department or agency.

In expressing sympathy for the principle behind that aspect of the bill, the dilemma we have with the model that is envisaged in this particular bill is that, essentially, it is saying that the existing chief executive officers will conduct this operational audit within six months of the commencement of the act. The Hon. Mr Darley will know, with the greatest of respect, the quality of some of the existing chief executive officers of some departments. I certainly would not have confidence that those particular chief executive officers should be the ones responsible for the operational audit.

This is especially so when one looks at other aspects of the draft bill from the Hon. Mr Darley, which essentially appears to indicate that any minister or government has to implement the findings of the audit conducted by the chief executive officer. In my view, that cuts across the whole notion of ministerial responsibility or, indeed, cabinet responsibility for decision-making. Whether we like it or not, however we might judge the competence of ministers or cabinets, ultimately I respect the view that chief executives and departments, by and large, are there to provide advice. Ultimately, the decisions have to be taken by ministers, cabinets and governments and not by the chief executive officer.

I would also say, for even the most competent chief executive officer we might see in the public sector, whoever he or she might be, the notion that there should be a requirement on me as a minister of a Liberal government or a Liberal cabinet to implement his or her decisions about the priorities or results of any operational audit is essentially wrong, as I said, in terms of proper corporate governance and wrong in terms of how decisions should be taken under our system of ministerial and cabinet responsibility.

There are alternative mechanisms for operational audits. We have seen them used in this and other states at the national level. We have had the Sustainable Budget Commission model, which essentially tried to adopt that model. There are significant elements of that report that were not implemented by government. I can certainly understand why some elements were not implemented; with others, it is harder to understand why particular decisions were not implemented, but essentially they were decisions of this current government.

There have been audit commissions. The former Liberal government had an audit commission, and certainly at the national level and interstate there have been various versions of audit commissions. I have to say that my personal view is that, if an incoming government were to have a sustainable budget commission or an audit commission, it would certainly make sense. But, in terms of an ongoing long-term government, my view is that there is a prominent role for a treasurer to adopt in terms of driving operational audits.

There are processes through cabinet decisions, and Treasury enacting cabinet decisions, requiring ministers to come back with results and ministers similarly requiring their chief executives to come back with results of an operational audit in terms of getting their own finances in order. Certainly, that is the sort of principle I personally support. I think it is not inconsistent with the position the Hon. Mr Darley has put at various meetings of the Budget and Finance Committee, albeit it is different from the current draft the parliamentary counsel has constructed for the Hon. Mr Darley for this bill.

In concluding my comments on that aspect of the bill, I would say—and I give this assurance to the Hon. Mr Darley—that if there is an incoming Liberal government, or if a Liberal government is elected in 2018, the essential principles of looking at operational audits and trying to act upon the results of operational audits would certainly be a feature of the decision-making of an incoming Liberal government. It would not be under the model that is proposed or outlined in this bill, but I think the Hon. Mr Darley would be not unhappy with what a new Liberal administration might do in terms of investigating the priorities of government departments and agencies.

The second aspect of the bill is one that puzzles me. Having had a quick discussion with the Hon. Mr Darley and without putting words into his mouth, as he can outline it himself, it appears that these have been drafts the parliamentary counsel has included in this particular draft of the bill. I thought perhaps the Auditor-General, in some report somewhere which I had missed, must have expressed some concern about the extent of his powers, but that does not appear to be the case, as the Hon. Gail Gago has outlined on behalf of the government.

Certainly, even if he had, the drafted changes to me potentially do not add anything of use to the existing powers of the Auditor-General anyway. It does remove various provisions in the act that apply to the Auditor-General. For example, it removes references to investigating efficiency and economy of use of resources with a broader notion of 'any other matter'. 'Any other matter' can be, as it suggests, any other matter; it certainly can include efficiency and economy of use of resources, but I am not sure that I would agree that the phrase 'efficiency and economy of use of resources' has been a limiting factor for the Auditor-General.

As I have outlined, privately to the Hon. Mr Darley, and I now place it on the public record, as he is aware we have an annual visit from the Auditor-General to the Budget and Finance Committee, which I think is in just three or four weeks' time. I would hope that the Hon. Mr Darley, if this bill does not progress beyond the second reading at this stage, might at least explore these potential changes to the Public Finance and Audit Act as they relate to the Auditor-General's powers with the Auditor-General. We can certainly tease out whether or not there is any tweaking that parliament should look at in relation to the powers of the Auditor-General.

In my humble view as a non-lawyer, I am not supporting the legislative model of operational audits, but even if I was supporting a legislative model of operational audits—that is, requiring it across the board for everyone within a certain time period—I think that that could be achieved without having to change the powers of the Auditor-General. Parliamentary counsel may well have a different view of that. Let's hear that particular debate, and also let's hear whether or not the Auditor-General and his officers have a view on this particular matter.

In relation to that aspect of the bill, it will certainly make sense to at least put some of these propositions to the Auditor-General in three or four weeks' time when he comes before the Budget and Finance Committee. With that, I indicate on behalf of the party our position. Certainly, at this stage, if it were to proceed to a second reading vote we would be prepared to support that. If it went beyond that to a third reading, at this stage we would be forced to vote against the third reading of the bill.

Debate adjourned on motion of Hon. G.A. Kandelaars.

STATUTES AMENDMENT (RIGHTS OF FOSTER PARENTS, GUARDIANS AND KINSHIP CARERS) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 9 December 2015.)

The Hon. G.A. KANDELAARS (17:07): In mid-2014, the tragic death of a child under the long-term guardianship of the minister, and in an approved kinship care placement with an auntie and uncle, raised a number of issues regarding the recognition of carers.

Last year, the member for Hammond introduced the bill, the Statutes Amendment (Rights of Foster Parents and Guardians) Bill 2015, to strengthen the rights and recognition of foster parents and legal guardians when a child in their care dies. The bill seeks to amend the Births, Deaths and Marriages Registration Act 1996 in the tragic event of the death of a child in care. This amendment will enable the register of births, deaths and marriages to include the name of their court-appointed guardian in the entry of the register relating to the child's death.

The original bill also sought to amend the Family and Community Services Act 1972 to provide that, in circumstances where a child dies whilst under the minister's guardianship or the guardianship of a court-appointed guardian, the Department for Education and Child Development (DECD) may endeavour, if requested, to assist birth parents and foster parents to resolve disagreements about post-death arrangements.

Whilst foster carers were specifically included in this amendment, other carers were not. The Attorney-General's office and the office of the Minister for Education and Child Development worked with the member for Hammond to remedy this situation and ensure that other carers, in addition to foster carers, were also recognised under this provision. I am pleased to report that the revised bill

also extends the offer of DECD assistance in resolving disagreements to kinship and other person guardianship carers.

The Statutes Amendment (Rights of Foster Parents and Guardians) Bill was debated in the House of Assembly on 3 December 2015 and passed. I welcome the greater recognition for carers that this bill would deliver. One of the most powerful ways to make a difference in the community is by being a foster, kinship or other person guardianship carer. When children cannot live with their own parents, carers step in, providing safe, stable and loving homes. Often it is a challenge and a complex role because children coming into their home may be traumatised by past experience or dealing with illness or disability.

But the difference carers make can be profound, helping children feel safe and loved and to build confidence and hope for the future. We value and appreciate what our carers do every day to make a difference in the lives of vulnerable children and young people. In the tragic event of the death of a child they have welcomed into their family, carers should be a afforded the rights and recognitions they deserve. This bill seeks to ensure that that is the case. I commend the bill to the house.

The Hon. J.S. LEE (17:11): Thank you very much to the Hon. Gerry Kandelaars for his contribution to the Statutes Amendment (Rights of Foster Parents, Guardians and Kinship Carers) Bill. The bill was introduced by the hardworking member for Hammond, Mr Adrian Pederick, in the other place, and it is a bill that acts on behalf of the constituents and foster parents. I think it is an important legislative change that is required, and I am pleased to hear that there is support by the government as well, so I move to progress the passage of this bill and commend the motion.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. J.S. LEE (17:16): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ROAD TRAFFIC (ISSUE OF FREE TICKETS BY PARKING TICKET-VENDING MACHINES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 9 December 2015.)

The Hon. J.M. GAZZOLA (17:17): The Road Traffic (Issue of Free Tickets by Parking Ticket-Vending Machines) Amendment Bill is an initiative of the member for Unley; therefore I advise that the government supports this bill. In practice, it will allow councils to introduce free short-term parking to encourage patronage of suburban businesses. It will also enable councils to manage the issue of all-day parking close to the CBD by workers who park and then walk or ride.

A further aim is to make enforcement of the free parking period more efficient, as currently councils have to resort to chalking tyres. This bill will allow local councils, as parking authorities, to issue free parking tickets for a nominated period of time. Signs would read 'free ticket' or 'free parking', with a requirement for a ticket to be obtained and displayed as soon as possible after parking. Failure to obtain a ticket or overstaying the time period would be subject to an expiation fee of $49 or a maximum court-imposed penalty of $1,250.

The Local Government Association of South Australia was consulted and it has advised that it does not foresee any issues with providing the power to install free ticket parking. It will be up to individual councils to decide whether or not they wish to introduce the measure. The government is aware of other jurisdictions where this initiative has been introduced.

The City of Sydney introduced free 15-minute ticket parking zones in the retail areas of 'village main streets' outside the city centre in December 2013. New South Wales also amended the regulations to allow for the no-fee scheme. Also, the Brisbane City Council allowed free 15-minute ticket parking in all non-CBD metered areas in December 2014. With those comments I commend the bill.

The Hon. J.S. LEE (17:19): I thank the Hon. John Gazzola for his contribution to the Road Traffic (Issue of Free Tickets by Parking Ticket-Vending Machines) Amendment Bill. This is a fairly simple bill and the contributions recognise that we need to listen to our community and introduce a very simple bill, which has passed in the House of Assembly. I commend the bill to the chamber and hope that it has a speedy passage.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. J.S. LEE (17:21): I move:

That this bill be now read a third time.

Bill read a third time and passed.

FAMILY RELATIONSHIPS (PARENTAGE PRESUMPTIONS) AMENDMENT BILL

Final Stages

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

(Continued from 11 February 2016.)

The Hon. G.A. KANDELAARS: I move:

That amendment No.1 be agreed to with amendment and consequential amendment, and that amendment No. 2 be agreed to.

To explain, the Hon. Tom Kenyon, the member for Newland, moved amendments to the original bill passed by this house, the Family Relationships (Parentage Presumptions) Amendment Bill 2015. Those amendments effectively required that the biological parents be listed on the birth certificate and that that be held by the births, deaths and marriages registry. This amendment effectively would only identify the biological parents with the express request of the applicant for the certificate, which is the child, but the failure to do so does not make the certificate invalid.

The other consequential amendment is that, because at the moment there is a review being undertaken of the Assisted Reproductive Treatment Act 1998, and within that there is a discussion about where the registration of biological parentage should be, currently the act allows that the Minister for Health may establish a register. I understand at the moment the register that maintains the biological information of the donor parent is held by each of the individual firms providing the service.

In the end, this amendment, if so agreed, would ultimately—if the review that is being undertaken did not provide some other suggestion in terms of the registration of the donor biological parent—lead to that being held by births, deaths and marriages, but it would not be automatically placed on the birth certificate; it would be in the background. What this does is allow time for that review to be undertaken before the proposed amendment would take effect.

The Hon. S.G. WADE: It is of course extremely unusual to have two amendments filed on the afternoon of a bill being considered, particularly on such a sensitive matter. I will refrain from being critical particularly in this context because I know that people who are involved with this bill have been having constructive discussions with members of another place, and my understanding is that the filing of these amendments is to try to facilitate that discussion.

Whilst I will be supporting this amendment, I stress that I am only doing so with such little notice because I do support a constructive discussion with members in the other place. I would

immediately flag some of the concerns with the amendment. We have had it for just under half an hour in terms of the filed copy and, with all due respect, I do not read the amendment in the context of the act in the same way as the Hon. Gerry Kandelaars does.

Again, with limited time to consider the issues, my reading of division 4 of the Births Deaths and Marriages Act suggests that an applicant need not be the person in relation to whom the certificate exists; it can be any person or organisation that, in the view of the registrar, has an adequate reason for wanting the information from the register.

I certainly hope that those who are involved in discussions, in perhaps facilitating an agreed amendment with the other place, might reconsider the Hon. Gerry Kandelaars' amendment. We could leave it in the hands of the registrar to decide whether a particular person has adequate reasons to know a person's biological parents, even if they are not the progeny of those biological parents, but I find it hard to imagine circumstances such as that, so it may be something that we need to consider in the legislation.

As I said, I want to facilitate a constructive discussion. I will be supporting the amendment. I do want to stress that, for the Liberal Party, it is a conscience vote. I will be considering any further amendments that come back from the other place, significantly putting a priority on the rights of a child to have access to their own biological history. As shadow minister for health, I appreciate that, more and more, a person's ability to manage and enhance their own health will be significantly enhanced by having access to that history.

In relation to the Hon. Gerry Kandelaars' comments about the site of the registry, shall we say, my understanding is that some of the key information that is held at the moment is held by private organisations in relation to reproductive medicine, and I am very uncomfortable about that situation going forward. If it were a choice between the Registrar of Births, Deaths and Marriages and the Department for Health, I would tend to lean towards the registrar.

The Hon. G.A. KANDELAARS: By way of explanation, I do accept the member's concern that this was rather rushed, and I must say that I only became aware that this matter was being brought on around 1 o'clock today. I do understand why the honourable member wants to deal with it as soon as possible, given that there are real people who have real reasons for this bill to pass. I was just trying to be constructive in terms of moving the issue forward and I hope this will do it. I acknowledge the concerns the honourable member has raised in terms of the applicant issue and that needs to be further explored.

The Hon. R.I. LUCAS: I have a question for the Hon. Mr Kandelaars. I have been told that the member for Newland has admitted that he got it wrong in terms of his amendment. Can the Hon. Mr Kandelaars confirm whether it is the case that the member for Newland has acknowledged that? I am not aware of the discussions. Is this amendment he is moving a result of the member for Newland agreeing with the Hon. Mr Kandelaars?

As I say, I am not privy to the discussions that the Hon. Mr Wade has referred to that have gone on with people in the other house. Does that involve the member for Newland? I have two questions. First, is it correct that the member for Newland has admitted that he got it wrong? Secondly, has the member for Newland been involved in the discussions that have resulted in this amendment?

The Hon. G.A. KANDELAARS: No, the member for Newland has not had any input into this. In terms of the first question, did he acknowledge a mistake? We did have a discussion with a number of people and he did acknowledge that it lacked that privacy provision that we are trying to insert in this particular case. He acknowledged that it would be better that the information about the biological parent only be made available on the approval of the child in question.

The Hon. R.I. Lucas: But, Gerry, is he supporting this amendment?

The Hon. G.A. KANDELAARS: Is he supporting it? No, he has not been consulted on it.

The Hon. R.I. Lucas: So, you don't know whether he's—

The CHAIR: Go through the Chair, please.

The Hon. G.A. KANDELAARS: No, he has not been consulted on it. This is just an attempt to move the thing forward in a reasonable way.

The Hon. T.A. FRANKS: I rise on behalf of the Greens to indicate that we are very happy nine months on from the vote in the Legislative Council to finally see this bill return in a message to this place. For a very small number of families, this bill will give recognition to both parents where a mother and her female partner willingly go and conceive a child through artificial reproductive technologies but have not lived together for the previous three years prior to that conception.

Finally, like other women in that position who conceive a child together but who have lived together for three-plus years, those who had not lived together for that three-year qualifying period will now be able to have both mums of that child on the birth certificate. It is a small cohort who have waited nine long months as this travelled through the lower house very slowly, and I am sure they would be very willing to see this progress today.

In the spirit of that willingness, I am somewhat attracted to Mr Kandelaars' amendment, but I certainly am not at all attracted to the amendment that was made by the member for Newland in the other place. That amendment sought to address a problem he raised in the course of that debate. The problem he identified was that a constituent of his who had lost their parents then wanted to track down their biological parents but had been unable to get that information.

In between Mr Kenyon first raising this issue in the other place and then concluding and moving his amendment, in fact his constituent was able to locate that information. It was simply that the file had been more difficult to track down through the particular provider than she had first hoped would be possible. The information was there. It was collected and kept by that provider and she was provided with the information about her biological parentage. In fact, the amendment seeks to solve a problem that does not exist because this information is already recorded.

Earlier today, I filed an amendment that came out of consultations with the member for Newland, Labor members, crossbench members and Liberal opposition members in the discussion we had in a meeting on Wednesday the 24th, in the Constitution Room of this place at 1pm, when we sought to come up with a compromise position. I did indicate to those members that I was going to be bringing this to a vote on this sitting day of parliament.

The compromise position I put to Labor members then was that we were trying to solve a problem that did not really exist, except we could streamline the process for those people who found themselves, as Mr Kenyon's, the member for Newland, constituent did, grappling with the fact that we do not have a centralised database for this information. In fact, the reason we do not have a centralised database is not through any legislative impediment. Indeed, tomorrow the Minister for Health could be keeping these records in a centralised way should he so choose.

My amendment therefore took up Mr Kenyon's concern and sought to compel the Minister for Health to keep this register, as he has been able to do since 2012. That amendment is not acceptable to the Minister for Health. I put it to the Labor members of this place and, indeed to the government, that they could solve this problem overnight without it coming before this place in the form of an amendment should the Minister for Health be willing to keep those records in an appropriate way.

However, I do accept the Minister for Health's concerns, and I share them, that we are currently undertaking a review of the Assisted Reproductive Technology Act. In that review we may actually see a recommendation that runs contrary to the discussion we are having right now. I am very attracted to the argument put forward by the Hon. Stephen Wade that, in fact, this information should not be collected and kept by the Department for Health or the Minister for Health but, indeed, by births, deaths and marriages. So, certainly I would be hoping that there might be some recommendations around that.

With that, I simply say that I circulated what I hoped would be a compromise acceptable to the minister who is charged with keeping these records and who has chosen to let the individual companies keep them separately, rather than through a centralised database. I had hoped that my proposed amendment, which I do not intend to move this evening but simply file for the information of members here in this place—

The Hon. R.I. Lucas: You're not moving yours?

The Hon. T.A. FRANKS: I am not moving mine, no. I simply wanted members to see that I had tried to come up with a compromise through the language, by simply changing one word in the act—that one word being 'may' changed to 'must'. The minister can already do this; it is just that the minister has chosen not to do this.

We are seeking to solve a problem that does not exist and we are coming up with more and more compromises. I would say that we are coming up with more and more compromises because these are same-sex couples. That is why we are compromising here, and we should not be compromising these children who are waiting to have both their mums on the birth certificate any longer.

With that, I am somewhat attracted to the least worst option of Mr Kandelaars' amendment, but I am certainly not attracted to supporting the member for Newland's amendment at all, and I have made that quite clear to him. I note also that in moving his amendment he did not talk to the mover of the bill in the other place, the member for Unley. He did not talk to me prior to introducing his amendment in the other place. He did not seek clarification from us, because both of us would have told him that you already have the ability to access this information you seek to make it possible to access.

The Hon. R.I. LUCAS: This is argued by some to be a relatively simple matter; for some of us, it is extraordinarily complex and complicated. This is a little bit of a sorry history in terms of its passage through this house. As I think some members will recall, the vote was called on during the dinner break. I opposed the original legislation, as the mover knows, and called divide, but those who were going to support me were off at dinner; they had guests, etc. It has had a sorry history in that respect; I am sure it has had a sorry history in other respects as well, but it has in terms of the parliamentary process.

I was just checking again where this had got to for the House of Assembly from my viewpoint. Let me confess that I respect the fact that the Hon. Tammy Franks has invested in this particular piece of legislation for the reasons she has outlined and has therefore followed it much more closely than many of the rest of us. I received an email from the Hon. Tammy Franks on 19 February, which I assume was soon after the debate in the House of Assembly and which indicated that she was wanting to, in essence, bring it to a conclusion, a consideration, when we reconvened, this week I guess it was.

I assumed from that that her position was that she was just opposing the position of the member for Newland, which had successfully passed through the House of Assembly. I had seen some brief media reports in relation to that. As I said, my position was that I opposed the legislation. For a variety of reasons, people whom I thought might have shared that view either were not here or actually supported the legislation, and that indeed was the case in the House of Assembly, which surprised me—some people actually supported the legislation. The majority of members are supporting it. I accept the democratic expression of those wishes in terms of the majority.

I assumed from 19 February onwards that the Hon. Tammy Franks' position was just to oppose the dastardly deeds of the member for Newland in the House of Assembly and that that was essentially what we would be voting on, but in the last 24 hours or so—perhaps it was early today or late yesterday, I cannot remember—and certainly at some stage I think maybe during question time, the honourable member indicated the nature of the amendment that she was moving.

I had not seen her draft amendment. It is listed as 1.42pm, but I probably did not see it until question time or after she had mentioned the fact that she was changing one word—I think it was 'may' or 'must', or 'must' or 'may'—and I did not have a chance at that stage to go through the import of what the member was indicating.

Certainly, the position I expressed together with others in our party meeting earlier today was that my preference was that this matter be adjourned and discussed at a later stage. I nevertheless respect the fact generally that private members control their motions. Wherever possible, I respect those wishes and the honourable member has indicated she wanted to proceed to a vote. As I said, I thought at that stage that it was relatively simple and we were either on the side of the dastardly

member for Newland or we were against the dastardly member for Newland in relation to this particular issue.

At 1.42pm or soon after that there was the amendment from the Hon. Tammy Franks, which I understood was her position. Then, late this afternoon at 4.55pm, and I did not see it until 5 o'clock or something, the Hon. Gerry Kandelaars plonks on the table another amendment.

I assume that the Hon. Gerry Kandelaars' position was different because he did come from the north-eastern suburbs and he was in the sort of general direction of the member for Newland in days gone past, although his philosophical directions and factional allegiances have moved somewhat away from the member for Newland as a result of various things at various times. On some things he seems to be with him and on others he is against him, but put that to the side.

I was not sure where the Hon. Gerry Kandelaars was coming from, but I thought we were confronting an amendment from the Hon. Tammy Franks and an amendment from the Hon. Gerry Kandelaars. Now the Hon. Tammy Franks makes it clear that, while she has filed the amendment, she is not supporting her amendment; she is now supporting the Hon. Gerry Kandelaars' amendment.

The Hon. Mr Wade is obviously aware of with whom discussions have been had. I was not and that is why I asked whether or not this was an amendment that had been agreed by the member for Newland, because genuinely I had no idea from whence the Hon. Mr Kandelaars was coming. I understand it is now a negotiation or a settlement between the Hon. Mr Kandelaars and the Hon. Ms Franks.

The Hon. T.A. Franks: No.

The Hon. R.I. LUCAS: No? Sorry, the Hon. Ms Franks is going to support the amendment being moved by the Hon. Mr Kandelaars and he has negotiated with persons unknown from either this house or another house, I am not sure. I am sure it is not just his own work in terms of this particular amendment. So the dilemma in my position is, as I said, I did not support the legislation in the first place, but it is clear now we are not going to be voting on the Hon. Tammy Franks' amendment, we are actually just voting on the amendments from the Hon. Gerry Kandelaars. Mr Chairman, will you be putting the questions separately—amendment No.1 and amendment No. 2 separately?

The CHAIR: They will be separate.

The Hon. R.I. LUCAS: In relation to amendment No. 1, the Hon. Mr Kandelaars and persons unknown are moving to accept the amendment, 'agrees with the amendment made by the House of Assembly with the following amendment', which he has outlined and then he makes a following consequential amendment in terms of the commencement of the particular provisions in the legislation.

So, for someone from my viewpoint who actually opposes the legislation, I am left in a quandary. I have never abstained on a vote before to my knowledge in over 30 years—I think there may have been a distant occasion but I cannot remember it if there was a case—but in this particular case I am caught 'twixt and 'tween and that is, as I said, I oppose the actual legislation. I do not know whether or not I have a problem with the Hon. Mr Kenyon's amendment. I certainly have very little idea in relation to the impact of the Hon. Mr Kandelaars' amendment, given we are going to have to vote on it.

The only position I may well be able to adopt is in some way to allow the debate to continue further so that there will be potentially another opportunity, because I am not sure what the views of the majority of the House of Assembly will be to this position. It may well be that the Hon. Mr Kandelaars is aware that this might be acceptable to a majority in the assembly—I am not sure—and there might be that opportunity.

I outline on the public record my quandary. I reiterate my position; that is, I oppose the legislation for the reasons that I outlined originally. I accept the majority view has now progressed the legislation. I am not attempting and do not intend to filibuster, but I put on the record that I am in a genuine quandary now that I understand where we are up to, having not had the chance to discuss

with anybody the Hon. Mr Kandelaars' amendment which gets plonked on us literally in the last half hour so.

I really do not know the full impact of that, but in listening to the remaining debate on this I will see whether there is some opportunity to further the movement of the bill between the houses which might allow further reflection from some of us who are still wondering what the impact of the Hon. Mr Kandelaars' amendment might be, and whether it is any better or worse than the dastardly deeds of the member for Newland in terms of the amendment which he moved and which passed through the House of Assembly.

The Hon. D.G.E. HOOD: Family First's position is fairly straightforward. We opposed the bill originally and we will continue to oppose it. With respect to the amendment we are dealing with at the moment, I think the Hon. Mr Lucas has outlined it well. It is very difficult when you get an amendment at 4.55pm to even consider it. I have not read it in its entirety. In fact, I suspect that few people in the chamber have read it in its entirety and certainly have not had any time to consider it. For that reason alone, I cannot support an amendment that I do not understand. I guess that leaves us in the position of supporting the member for Newland's amendment to a bill we oppose.

The Hon. K.L. VINCENT: Just briefly, to put some of my thoughts on the record, I largely eschew some of the comments of previous speakers. Of course, I acknowledge that we only received this amendment in our inboxes an hour or so ago and I have been trying to wrap my non-lawyerly mind around it since then.

Given that I support the original bill in principle, I am inclined to support this amendment, particularly given that the mover of the bill says that she is willing to do so at this stage, if I have understood what she has said. So, if the mover of the bill does not object to the amendment and does not believe that it would interfere with what she is trying to achieve with the bill in any substantial way, I am inclined to support the amendment given that I support the general intent of the bill. However, as previous speakers have said, I am keenly aware that I do so as a very big compromise.

I like other members have been very much involved in trying to get the relevant minister or the relevant body, whether it be the Minister for Health or the births, deaths and marriages registrar, to actually commit to holding a central database. We already know that individual IVF clinics can and do record information with regard to the identity of biological parents. When there is not a centralised database for that information it can be very difficult to get it because the availability varies from clinic to clinic.

Certainly my preference would be that there would be a centralised database, whether that be held by the minister or the registrar, and certainly we have been doing some work in my office towards that. But, again, I feel that it is important to point out, as Ms Franks said, that really we are in some respects addressing a problem through this amendment that does not exist, or at the very least does not have to exist, given that the minister has had the ability under the existing legislation to hold this register since 2012. So here we are in 2016 and it still has not been done.

I am of course aware, as we all are, that there is a review going on and I certainly fervently hope, as do the people that my office has been working with and supporting, that one of the key recommendations that will come out of that review is that the minister must initiate and maintain a centralised database. In the meantime I am happy to support this as a compromise amendment but, as I say, I am very aware that it is just that: it is a compromise and we must continue to work towards the more holistic and respectful solution, which would be a mandated centralised database.

The CHAIR: If there are no further contributions, I will put the question that amendment No. 1 of the House of Assembly with an amendment and consequential amendment be agreed to.

An honourable member: Divide!

The CHAIR: Unfortunately, the Hon. Mr Hood was not in his seat and there was only one voice. I cannot do much about that.

The Hon. R.I. LUCAS: Point of order, Mr Chairman. On previous occasions when that has occurred you have actually called it again. Ultimately, it is an opportunity on a conscience vote for

members to indicate their point of view. You have certainly, on precedent, done that. If you are going to establish this precedent—

The CHAIR: I will make that decision. I have already made a decision, but you are right. I think the fact that the Hon. Mr Hood is still in the room and he is prepared to support the division, I will call for a division.

The committee divided on the amendment:

Ayes 13
Noes................ 3
Majority............ 10

AYES

Darley, J.A.	Franks, T.A.	Gago, G.E.
Gazzola, J.M.	Hunter, I.K.	Kandelaars, G.A. (teller)
Lee, J.S.	Maher, K.J.	Malinauskas, P.
McLachlan, A.L.	Parnell, M.C.	Vincent, K.L.
Wade, S.G.		

NOES

Brokenshire, R.L.	Hood, D.G.E.	Lucas, R.I. (teller)

Amendment No. 1 thus carried; amendment No. 2 carried; motion carried.

Sitting suspended from 18:05 to 19:47.

CONSTITUTION (APPROPRIATION AND SUPPLY) AMENDMENT BILL

Second Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (19:48): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill makes changes to Part 2, Division 5 of the *Constitution Act 1934* ('Constitution Act'), which relates to money Bills. It introduces a new process for securing the passage of the annual Appropriation Bill and Supply Bill, so that those Bills will not need to be passed by the Legislative Council before being presented to the Governor for assent.

In 1913, the current provisions of the Constitution Act relating to money Bills were inserted. Those provisions set out specific requirements regarding money Bills and money clauses, including that the Legislative Council cannot amend a money clause, but can suggest amendments.

The Constitution Act also contains specific provisions in relation to appropriation Bills. It draws a distinction between a money clause in an appropriation Bill that appropriates revenue or other public money for *some purpose other than a previously authorised purpose*, and a money clause in an appropriation Bill which appropriates revenue or other public money *for a previously authorised purpose*. It was intended, when the provisions were inserted, that the former category of money clauses would be able to be the subject of suggested amendment by the Legislative Council; the latter would not. In other words, the Constitution Act envisaged that the role of the Legislative Council in relation to money Bills that were for a previously authorised purpose was to be more limited, and that amendment (including suggested amendments) by the Legislative Council, would not be permitted.

In practice what has occurred is that, since at least 1981, the annual Appropriation Bill provides for appropriations both for previously authorised purposes, and for purposes not previously authorised, and the Legislative Council is able to suggest amendments to all aspects of the annual Appropriation Bill. The intention behind the provisions inserted into the Constitution Act in 1913 has not been realised.

As a result, the Legislative Council today has more power in relation to the annual Appropriation Bill than was originally intended. There is a risk that the Legislative Council could misuse that power and, for example, unacceptably delay the annual Appropriation Bill and, in doing so, disrupt the machinery of Government. This Bill removes that risk.

The Bill removes from the Constitution Act the current definitions of 'appropriation Bill' and 'previously authorised purpose' and deletes current section 63 of the Constitution Act. As already discussed, those provisions have not operated as originally intended and are to be replaced by the proposed new mechanism for dealing with annual Appropriation Bills and Supply Bills.

The Bill proposes to insert new section 63 into the Constitution Act to provide that if, in relation to either the annual Appropriation Bill or the Supply Bill, after transmission to the Legislative Council, the Legislative Council:

- open-capture fails to pass the Bill within one month; or
- open-capture rejects the Bill; or
- open-capture passes the Bill with amendments to which the House of Assembly does not agree,

the annual Appropriation Bill or Supply Bill (as the case may be) will be taken to have passed both Houses of Parliament and will be presented to the Governor for assent.

So, in effect, the Legislative Council has one month to deal with the Annual Appropriation Bill or Supply Bill. If it does not, then the Bill will be presented to the Governor for assent without having passed the Legislative Council.

Proposed new section 63(2) provides that there can only be one annual Appropriation Bill and one Supply Bill in respect of a particular financial year.

Definitions of 'annual Appropriation Bill' and 'Supply Bill' will be in new section 63(3) of the Constitution Act. In South Australia, the annual Appropriation Bill authorises all appropriation for the financial year, other than some standing appropriations that are contained in specific legislation. It is intended that this will continue to be the case. The Bill defines 'annual Appropriation Bill' as a Bill that 'appropriates money from the Consolidated Account in respect of a particular financial year', and that deals only with the appropriation of such money. The Supply Bill is defined as a Bill that 'appropriates money from the Consolidated Account in respect of a particular financial year pending the enactment of the annual Appropriation Bill in respect of that year', and that deals only with such appropriation of such money.

Importantly, the definitions of annual Appropriation Bill and Supply Bill make clear that there can be no tacking of other matters on to those Bills. Annual Appropriation Bills and Supply Bills can only deal with appropriation from the Consolidated Account in respect of a particular financial year. This is an important safeguard, which is intended to prevent against any expansion of the content of an annual Appropriation or Supply Bill beyond what we would ordinarily expect to see in those Bills.

The commencement of the Bill is subject to the operation of the *Referendum (Appropriation and Supply) Bill 2015*, which provides for a referendum on the Bill to be conducted at the next general election of the House of Assembly.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement and operation

The measure will need to be submitted to a referendum under the proposed *Referendum (Appropriation and Supply) Act 2015*.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Constitution Act 1934*

4—Amendment of section 60—Interpretation

This clause is consequential on the amendments relating to annual Bills for appropriation and supply.

5—Amendment of section 62—Power of Council as to money clauses

The repeal of section 62(3) is related to the operation of proposed section 63. The amendment to section 62(2) is consequential on the repeal of subsection (3).

6—Substitution of section 63

This clause sets out a new scheme with respect to annual Bills for appropriation and supply (which are defined as *prescribed annual Bills*). Essentially, the scheme provides that a prescribed annual Bill that has been passed by the House of Assembly will, if the Legislative Council fails to pass the Bill within 1 month, rejects it or passes the Bill with suggested amendments to which the House of Assembly does not agree, be deemed to have passed both Houses of Parliament and will be presented to the Governor for assent.

Key definitions are set out, including definitions of an *annual Appropriation Bill* and a *Supply Bill*.

Schedule 1—Transitional provision

1—Annual Bills for appropriation and supply

The new provisions relating to annual Bills for appropriation and supply will only apply in relation to Bills introduced into the Parliament after the commencement of this measure.

Debate adjourned on motion of Hon. D.W. Ridgway.

CONSTITUTION (DEADLOCKS) AMENDMENT BILL

Second Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (19:49): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill proposes to amend the *Constitution Act 1934* ('Constitution Act') to insert a new mechanism to resolve persistent disagreements between the Legislative Council and the House of Assembly.

Section 41 of the Constitution Act currently provides that where a Bill has been passed by an absolute majority of the House of Assembly but rejected by the Legislative Council and, after a general election, the same or a similar Bill is then passed by an absolute majority of the House of Assembly but rejected by the Legislative Council, the Governor may either dissolve the Parliament or issue writs for the election of two additional members for each Council district.

Section 41 has never been used. The most likely reason for this is that it only operates in relation to Bills that have been in dispute for more than one term of a government. Further, the deadlock mechanism does not guarantee the resolution of a deadlock. This is because, since the introduction of a single state-wide electorate in 1973, the option to elect two additional members to the Legislative Council is unlikely to resolve a deadlock. In addition, it is also not necessarily the case that a dissolution election would return a Parliament that is amenable to the Bill or Bills that triggered the double dissolution.

This leaves disagreements between the Houses of Parliament in South Australia to be dealt with by way of ordinary negotiations in the course of the parliamentary process, and the Conference of Managers process, provided for in the Standing Orders.

This Bill provides another option. The Bill deletes the current section 41 of the Constitution Act, and replaces it with a new deadlock mechanism, which is modelled on the deadlock mechanism in section 57 of the *Commonwealth Constitution*. The new deadlock mechanism includes a double dissolution and a joint sitting. It is intended that the new deadlock mechanism will be a workable option in the event of an ongoing and persistent deadlock between the Houses of Parliament.

Proposed new section 41 of the Constitution Act provides that the Governor may call a double dissolution to resolve a deadlock where the following two processes have occurred.

First, the House of Assembly has passed a Bill (referred to as the 'first Bill'), and the Legislative Council has:

- failed to pass the first Bill within 15 sitting days after its transmission to the Legislative Council; or
- rejected the first Bill; or
- passed the first Bill with amendments to which the House of Assembly does not agree.

Second, the House of Assembly has introduced a Bill that is the same as the first Bill, and passed that Bill with amendments (if any) within the scope of proposed new section 41(6) of the Constitution Act. This is referred to as the 'second Bill'. The Legislative Council has then:

- failed to pass the second Bill within 9 sitting days after it is transmitted to the Legislative Council; or

- rejected the second Bill; or
- passed the second Bill with amendments to which the House of Assembly does not agree.

At a double dissolution election, all members of the House of Assembly and the Legislative Council would vacate their seats. Sections 14 and 15 of the Constitution Act set out the process for determining which members of the Legislative Council would then retire at the next general election.

After a double dissolution, where the House of Assembly introduces a Bill that is the same as the second Bill, and passes that Bill with amendments (if any) within the scope of proposed new section 41(7) of the Constitution Act, then it would be referred to as the 'third Bill' for the purposes of new section 41. If the Legislative Council then:

- fails to pass the third Bill within 9 sitting days after it is transmitted to the Legislative Council; or
- rejects the third Bill; or
- passes the third Bill with amendments to which the House of Assembly does not agree,

the Governor may convene a joint sitting of the members of the Legislative Council and House of Assembly.

The joint sitting may consider the third Bill and any amendments that have been made to the third Bill by one House and not agreed to by the other (referred to 'prescribed amendments'). If the third Bill is affirmed by an absolute majority of the total number of members of the Legislative Council and the House of Assembly at the joint sitting, then it will be taken to have passed both Houses of Parliament, along with any prescribed amendments that are also affirmed by an absolute majority of the total number of members of the Legislative Council and the House of Assembly at the joint sitting. The third Bill can then be presented to the Governor for assent, unless it is a Bill that would in the ordinary course require approval at a referendum prior to assent (in which case that would need to occur).

As with the deadlock mechanism in the *Commonwealth Constitution*, it is intended that a double dissolution could be triggered by more than one Bill, and that more than one Bill could be considered at a joint sitting.

Subsections (6) and (7) of the proposed new section 41 set out the types of amendments that the House of Assembly can make to a second Bill and third Bill. Consistent with the position in section 57 of the Commonwealth Constitution, the House of Assembly can:

- make amendments to the second Bill that are certified by the Speaker as being consistent with amendments made to, or agreed in relation to, the first Bill by the Legislative Council; and
- make amendments to the third Bill that are certified by the Speaker as being consistent with amendments made to, or agreed in relation to, the second Bill by the Legislative Council.

This ensures that the deadlock mechanism provides scope for changes to be made to the second and third Bills to reflect any compromise, or agreements reached along the way, between the Houses.

In addition, the House of Assembly can make amendments to the second and third Bill which are certified by the Speaker to be necessary owing to the time has elapsed since the date on which the first or second Bill passed the House of Assembly. This would allow, for example, a commencement date in a second Bill or third Bill to be amended where the commencement date had already passed or was no longer appropriate having regard to the passage of time.

As well as the amendments to section 41 of the Constitution Act, the Bill makes a minor amendment to section 57 of the Constitution Act to make clear that section 57 applies to a Bill for the purposes of section 41. Where a Bill is restored to the Notice Paper after prorogation then, for the purposes of section 41, the Bill will be treated as if no prorogation had occurred. This ensures that the process for settlement of deadlocks is not disrupted by the prorogation of Parliament.

If passed by the Parliament, the Bill will need to be approved at a referendum. As such, the commencement of this Bill is subject to the operation of the *Referendum (Deadlocks) Act 2015*.

For too long the Constitution Act has been without an effective deadlock mechanism. It is hoped that the introduction of the deadlock mechanism that includes a joint sitting would provide an effective deadlock mechanism in the event of a persistent disagreement between the Houses of Parliament, to complement the Conference of Managers process that is currently utilised by the South Australian Parliament.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement and operation

The measure will need to be submitted to a referendum under the proposed *Referendum (Deadlocks) Act 2009*.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Constitution Act 1934*

4—Substitution of section 41

This clause sets out a new scheme with respect to the settlement of deadlocks between the House of Assembly and the Legislative Council. It is based on the scheme under section 57 of the Commonwealth of Australia Constitution Act. Essentially, the scheme provides for a double-dissolution trigger if a particular Bill is rejected on 2 occasions by the Legislative Council, taking into account some specified time periods and other related requirements. If, after a double-dissolution election, the Bill is rejected on a third occasion, the scheme provides for a joint sitting. If the joint sitting affirms the Bill (by an absolute majority), the Bill (with any amendments affirmed by an absolute majority of the joint sitting) is deemed to have passed Parliament and will be presented to the Governor for assent.

5—Amendment of section 57—Restoration of lapsed Bills

This clause is related to the operation of proposed section 41.

Schedule 1—Transitional provisions

1—Powers of Legislative Council in relation to Bills

The new deadlock provisions will only apply in relation to Bills introduced into the Parliament after the commencement of this measure.

Debate adjourned on motion of Hon. D.W. Ridgway.

REFERENDUM (APPROPRIATION AND SUPPLY) BILL

Second Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (19:49): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill provides for the manner in which a referendum will be held on the *Constitution (Appropriation and Supply) Amendment Bill 2015*.

The *Constitution Act 1934* ('Constitution Act') provides that certain Bills cannot be presented to the Governor for assent until they have been approved at a referendum. This includes any Bill which proposes to alter the powers of the Legislative Council, as the *Constitution (Appropriation and Supply) Amendment Bill 2015* does.

As such, and pursuant to section 10A of the Constitution Act, the *Constitution (Appropriation and Supply) Amendment Bill 2015* must, on a day which shall be appointed by proclamation, being a day not sooner than two months after it has passed through both Houses of Parliament, be submitted to electors as provided by and in accordance with an Act which must be passed by Parliament.

This Bill, if enacted, will be an Act referred to in section 10A of the Constitution Act. The Bill sets out the manner in which the *Constitution (Appropriation and Supply) Amendment Bill 2015* will be submitted to electors.

The Bill provides that a referendum on the *Constitution (Appropriation and Supply) Amendment Bill 2015* will take place at the next House of Assembly general election. The Bill also provides that another referendum can be held on the same day under another Act. This is a reference to the proposal before this Parliament in the *Constitution (Deadlocks) Amendment Bill 2015*, which would also require approval at a referendum.

The *Constitution (Appropriation and Supply) Amendment Bill 2015* will be passed if approved at the referendum by the majority of electors voting at the referendum.

The referendum will be conducted by the Electoral Commissioner. The Bill provides that the *Electoral Act 1985* applies to the referendum with such modification, adaptations and exclusions as are prescribed by regulation as if the referendum were a general election of members of the House of Assembly. Accordingly, detailed regulations will need to be prepared to support the Bill and modify the *Electoral Act 1985* for the purposes of the referendum.

If this Bill is passed, then South Australians would go to their first referendum since 1991. This would be a momentous occasion, and the Government encourages all South Australians who will be eligible to vote at the next general election to engage in the debate and discussion on the *Constitution (Appropriation and Supply) Amendment Bill 2015* in the lead up to the referendum.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

This clause is formal.

2—The referendum

This clause provides for the *Constitution (Appropriation and Supply) Amendment Bill 2015* to be submitted to a referendum. The provision specifies that the referendum must be held on the day of a general election (taking into account the requirement in section 10A of the *Constitution Act 1934* that the referendum be held not less than 2 months after the Bill has passed through the Parliament). If a majority of electors approve the *Constitution (Appropriation and Supply) Amendment Bill 2015* at the referendum, then the Bill is to be presented to the Governor for assent.

3—Conduct of referendum

This clause provides that the Electoral Commissioner is responsible for the conduct of the referendum and provides for the appointment of scrutineers for the purposes of the referendum, the application of the *Electoral Act 1985* to the referendum and the declaration of the result of the referendum.

4—Regulations

This clause provides for the making of regulations for the purposes of the measure.

Debate adjourned on motion of Hon. D.W. Ridgway.

REFERENDUM (DEADLOCKS) BILL

Second Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (19:50): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill provides for the manner in which a referendum will be held on the *Constitution (Deadlocks) Amendment Bill 2015*.

The *Constitution Act 1934* ('Constitution Act') provides that certain Bills cannot be presented to the Governor for assent until they have been approved at a referendum. This includes Bills which amend section 41 of the Constitution Act and Bills which alter the powers of the Legislative Council. The *Constitution (Deadlocks) Amendment Bill 2015* does both of those things.

As such, and pursuant to section 10A of the Constitution Act, the *Constitution (Deadlocks) Amendment Bill 2015* must, on a day which shall be appointed by proclamation, being a day not sooner than two months after it has passed through both Houses of Parliament, be submitted to electors as provided by and in accordance with an Act which must be passed by Parliament.

This Bill, if enacted, will be an Act referred to in section 10A of the Constitution Act. The Bill sets out the manner in which the *Constitution (Deadlocks) Amendment Bill 2015* will be submitted to electors.

The Bill provides that a referendum on the *Constitution (Deadlocks) Amendment Bill 2015* will take place at the next House of Assembly general election. The Bill also provides that another referendum can be held on the same day under another Act. This is a reference to the proposal before the House of Assembly in the *Constitution (Appropriation and Supply) Bill 2015*, which would also need to be approved at a referendum.

The *Constitution (Deadlocks) Amendment Bill 2015* will be passed if approved at the referendum by the majority of electors voting at the referendum.

The referendum will be conducted by the Electoral Commissioner. The Bill provides that the *Electoral Act 1985* applies to the referendum with such modification, adaptations and exclusions as are prescribed by regulation

as if the referendum were a general election of members of the House of Assembly. Accordingly, detailed regulations will need to be prepared to support the Bill and modify the *Electoral Act 1985* for the purposes of the referendum.

If this Bill is passed, then South Australians would go to their first referendum since 1991. This would be a momentous occasion, and the Government encourages all South Australians who will be eligible to vote at the next general election to engage in the debate and discussion on the *Constitution (Deadlocks) Amendment Bill 2015* in the lead up to the referendum.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

This clause is formal.

2—The referendum

This clause provides for the *Constitution (Deadlocks) Amendment Bill 2015* to be submitted to a referendum. The provision specifies that the referendum must be held on the day of a general election (taking into account the requirement in section 10A of the *Constitution Act 1934* that the referendum be held not less than 2 months after the Bill has passed through the Parliament). If a majority of electors approve the *Constitution (Deadlocks) Amendment Bill 2015* at the referendum, then the Bill is to be presented to the Governor for assent.

3—Conduct of referendum

This clause provides that the Electoral Commissioner is responsible for the conduct of the referendum and provides for the appointment of scrutineers for the purposes of the referendum, the application of the *Electoral Act 1985* to the referendum and the declaration of the result of the referendum.

4—Regulations

This clause provides for the making of regulations for the purposes of the measure.

Debate adjourned on motion of Hon. D.W. Ridgway.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Committee Stage

In committee (resumed on motion).

Clause 158.

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

Amendment No 65 [Emp–4]—

Page 136, line 18—Delete 'consideration must be given to' and substitute:

the scheme coordinator should seek to act consistently with

Before we move on, I note that the Hon. D. Ridgway raised an example earlier today of a mum and dad home owner buying a house years after it has been built and the liability for payment of a contribution under a basic scheme. I have now been able to receive some updated advice and wish to clarify the advice in response to the honourable Leader of the Opposition's concerns.

In relation to basic infrastructure schemes, it is not the intention of the government that any future landowner be saddled with payment of a charge years after the land is developed. Clause 158, as amended by Amendment No. 64 moved in my name and passed, subclause (1a)(c) expressly provides that:

> the charge should be based on a scheme under which a payment or payments under the charge become payable (or commence to become payable) on a specified event or events;

Only the relevant developer is party to the scheme. The subsequent owner—as with the example of the mum and dad—is not and therefore cannot be liable for a charge that is set up under the basic infrastructure scheme provisions. Specific event or events is defined in clause 158(1b) and those events are actions that would be undertaken by a developer when they seek to take advantage of the basic infrastructure scheme, for example, depositing a plan or undertaking approved development.

These actions are not actions that would be taken by a subsequent owner in the example of the mum and dad owner down the track. However, the government recognises that the use of the words 'should be' and 'for example' in relation to the trigger of a payment under a charge under subclause 158(1b) as amended may be made clearer that a payment for a charge under the basic infrastructure scheme only occurs on development being undertaken; that is, when a plan is deposited for division of land or approved development is undertaken.

Over and above the existing checks and balances provided in relation to the basic structure scheme, the government wishes to assure the honourable Leader of the Opposition and industry representatives that we will work together prior to recommittal to ensure that this concern is made as clear as possible.

The Hon. D.W. RIDGWAY: I am pleased that the minister has corrected the record. As you would recall, Mr Chairman, last night I asked some lengthy questions around allotments. I think what the minister said was that there were two versions of the basic scheme—an up-front lump sum deducted from the farmer's property or, possibly, an annual payment. I was concerned that that was inaccurate, and that is why again today I asked those questions prior to lunch.

I am very pleased that the minister has now realised that the advice he gave the chamber was incorrect. I could be a bit cute and say that brings into question all the advice the minister has given the chamber over this entire bill. We had the Hon. Gail Gago, who is not in the chamber at present, as minister prior to Christmas and now we have the Hon. Kyam Maher.

Also, today during question time, Mr Chairman, you referred to my behaviour in the committee stage of this bill as a disgrace. I would like you to consider that and maybe tomorrow, in your role as President during question time, you might like to correct the record because all I was doing was, on behalf of South Australian citizens, trying to find out exactly what the intent of this bill is. We have seen tonight, of course, that I was right and the minister had provided information that was incorrect, and I am pleased he has corrected it.

The Hon. R.I. Lucas: He misled the house.

The Hon. D.W. RIDGWAY: As my colleague the Hon. Rob Lucas mentions, he misled the house last night—

The Hon. R.I. LUCAS: And again this morning.

The Hon. D.W. RIDGWAY: —and again this morning, and I guess he has come in at the earliest possible convenience to correct the record, but only because of several hours of questioning.

I do have to correct something else. The UDIA were somewhat concerned that I had used their name as the UDIA in the debate. We will correct the record to say that it was not the chief executive or president of the UDIA but a senior member of the Urban Development Institute of Australia who actually cleared it with the chief executive and the president that he would come and brief the opposition. They might say it was not them directly, but they did actually know he was doing it and he did it with their blessing.

My question is this, and I will use the example given to me today. If the agreed charge amounts to, say, $5,000 an allotment for a subdivision, can the developer say to the relevant authority, 'I want to pay that over time. I know I won't get the lots created.'? I think it is section 51 that mentions all the charges such as electricity or water. Can a developer say, 'It is $5,000 an allotment. I want to release 30 allotments, which is $150,00. I will give you $10,000 a month for 15 months and at that point I will then be able to get my allotments.' Can a developer do that along the way?

The Hon. K.J. MAHER: I am advised that it is the intention of the scheme, in the example we have given, that no future owner will be liable for payment. As I said, to make it absolutely clear, we work with the industry and the opposition to make sure that between now and when it is recommitted the language makes sure that it is abundantly clear.

The Hon. D.W. RIDGWAY: I understand that, about no future owner—that is, the mum and dad—but what about the developer who says, 'I want to pay my infrastructure charge over time'? I gave the example of 30 allotments that they want to release, they know they are not going to do it for another 12 or 18 months but they start the process. I used the figure in the discussion I had with

the representative from the Urban Development Institute of 30 allotments at $150,000—can I pay 10 grand a month for 15 months?

The Hon. K.J. MAHER: I am advised in relation to that question that if it was one specified event, basically the trigger development of 100 allotments all at once, that would be payable in that one lump sum. However, it could be possible—if a developer was, for instance, developing 10 allotments at a time, then another 10 allotments later, then another 10 allotments—it could be done over a period of time based on those triggers for those allotments over that period of time.

The Hon. M.C. PARNELL: I will pursue the same question because my understanding is that the minister pointed us to his amendment No. 64 and he stated (he was paraphrasing) that there could be some clarification involved as to the trigger events. One trigger event is lodging a subdivision plan; another trigger event is actually building the house on the block—in other words, undertaking the development.

The scheme, as I understand it, anticipates that there could be separate charges. You pay your first $10,000 when you subdivide the block and there is another $10,000 payable when you build the house, so the mum and dad could come into it if they are buying a house and land package. The second payment would be added, I would have thought, to what they pay. I am seeing shaking of heads, but I will ask the minister to clarify it.

Secondly, I notice that proposed new subclause (1)(c) talks about the exemptions from the imposition of a charge applying in circumstances prescribed by regulation. My understanding of that was that the regulations could prescribe situations where someone is exempted from paying it all up-front and could in fact be allowed to pay it over time. That is how I would have interpreted it.

The Hon. K.J. MAHER: My advice is that it is the first in time event that triggers the payment. If subsequent events happened after that, it would be the first in time event that would trigger the payment not the separate events for partial payment. That is my advice.

The Hon. M.C. PARNELL: The reason I struggle with that is that proposed new paragraph (c) in amendment No. 64 talks about a payment or payments—plural. That tells me that it is anticipated that a structured payment plan might be part of this deal. That is how I read it, and that suggests to me that, whilst a liability might accrue early on, it could be structured for payment over time.

The Hon. K.J. MAHER: I am advised that that would come into it in the example I gave earlier. If it is a large development that has a series of 10 being developed, then another 10 and another 10, that is what the payments refer to, the plural payments, the possibility of the specified events on different parts of that development occurring.

The Hon. D.W. RIDGWAY: I might clarify it further with the Hon. Mark Parnell, if I may. I will attempt to. My understanding is that the allotments will not be created and therefore available for sale until this charge is paid by the developer. The developer has no allotment to actually sell to the mum and dad to build the house.

I think in section 51 you are obliged to make sure that you have paid the SA Water augmentation fee and SA Power Networks; I think in some cases in Mount Barker it is to the Mount Barker council in relation to sewerage. Until you have paid that, the mechanism to create allotment does not happen, so there is nothing to pass on. That was my understanding from yesterday as to why we were having a charge levied over a period of time, when on my understanding it was never the intention.

In some of the briefings the opposition has received, the government has said that the council (being local government) will collect the levy. I am assuming that is if it is deemed that they are the relevant authority. It may be local government or it may be somebody else. I am just seeking some clarification. We are not relating questions to this clause, but this is the resumption of the discussion, I suspect. If you could just clarify who it will actually be.

My colleague Steven Griffiths, the shadow minister and the member for Goyder, has said that in a lot of the briefings he received it was all about council would collect the levy. That might have been about the general scheme or it may have impacts on the basic scheme, but I am just interested to know. Clearly, if this is a fee on the basic infrastructure that they have paid and the

allotment is not created, why would they have council involved at that stage unless council is expected to do the work?

The Hon. K.J. MAHER: I am advised that government amendment No. 92 clarifies this, that the basic scheme charge is payable to the minister and the general scheme charge is payable to the council. That is government amendment No. 92.

The Hon. D.W. RIDGWAY: While we are on this, even though we are not at government amendment No. 92, do councils which are collecting the levy hold the liability for the payment or for the cost of the infrastructure to be paid for by the levy, or do they pass it on? If you want to build some infrastructure, who actually builds it and on whose balance sheet is it? Is it the state government or is it the local council?

The Hon. K.J. MAHER: I am advised that government amendment No. 77, which we will get to, inserts subclause (8) into clause 159:

> To avoid doubt, the liabilities of the scheme will accrue under the terms of the scheme (and, if relevant, against a fund established under Subdivision 4 and not against a council that is required to make a contributions under Subdivision 3.

The Hon. D.W. RIDGWAY: That is amendment No. 77?

The Hon. K.J. MAHER: Amendment No. 77 I think directly answers it.

Amendment carried.

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

Amendment No 66 [Emp-4]—

> Page 136, line 23—Delete 'excessive' and substitute 'excessively adverse'

This amendment clarifies to delete 'excessive' and substitute 'excessively adverse'.

The Hon. D.W. RIDGWAY: Why is the minister deleting 'excessive' and putting in 'excessively adverse'?

The Hon. K.J. MAHER: I can inform the honourable member that this amendment came about after consultation with industry to make it clear that we are limiting things that are going to be excessively too much, and that was in consultation with industry.

The Hon. M.C. PARNELL: I thank the minister for his answer, but what were they thinking? Looking at the clause as it is currently drafted, it talks about:

> …contributions should be limited to recovering the reasonable capital costs of the scheme based only on infrastructure that is not excessive...

We have talked before about not having gold-plated infrastructure, so it is the infrastructure that is not to be excessive; now it is not to be 'excessively adverse'. That makes no sense to me at all, because no infrastructure should be adverse. The only infrastructure we should be doing is infrastructure that is of a benefit.

The Hon. K.J. MAHER: In my opinion, it is about the contribution, not the infrastructure itself.

The Hon. M.C. PARNELL: I am not going to sweat the small stuff over it. I do not think it adds a great deal, but if that is what is there, it is there.

The Hon. D.W. RIDGWAY: It is interesting. The industry does not want an urban growth boundary and wants a few other things in this bill, but the government ignores that, but by the same token it puts in one word in the bill that I think is almost unnecessary. The government has the numbers. The Hon. Mark Parnell is not going to support the opposition, so we will not divide on it; but it just seems crazy.

Amendment carried.

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

Amendment No 67 [Emp-4]—

Page 136, line 25—Delete subparagraph (ii) and substitute:

(ii) employment, investment or economic viability associated with a contribution area;

This amendment strengthens and clarifies the intent of clause 158(2)(b)(ii) consistent with clause 158(1)(b)(iii), which also refers to employment, investment or economic viability.

The Hon. D.W. RIDGWAY: So now it will read that it is not to have an excessively adverse effect on employment, investment or economic viability associated with the contribution area. What is the difference between economic viability of the contribution area?

The Hon. K.J. MAHER: My advice is that it brings it into line with the language that has previously been used.

Amendment carried.

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

Amendment No 68 [Emp–4]—

Page 136, after line 25—Insert:

(ba) the timing of the collection of contributions under the scheme should be connected to the production or delivery of infrastructure to which the contributions relate, such that the scheme should not involve the collection of an excessive amount of contributions before the relevant infrastructure is produced or delivered; and

The Hon. M.C. PARNELL: I might pose a question on this amendment. Again, we do not want to sweat the small stuff here, but the inclusion of this provision suggests that the contributions to be made will be staged. Let's say we are talking about a road that you pay for when part of the road is built and when it is finished. You pay as you go seems to be what it says.

The amendment proposes 'that the scheme should not involve the collection of an excessive amount of contributions before the relevant infrastructure is produced or delivered'. It seems to be quite at odds with what has been said before, which is that we are talking about up-front, one-off payments, which this clause seems to contradict. This clause seems to suggest that the person building the infrastructure is going to put their hand out on a needs basis and collect contributions when they get to the next stage of building the infrastructure.

The Hon. K.J. MAHER: As I am advised, I think the clarification might be that this only relates to the general infrastructure scheme, not the basic one which we were talking about before earlier tonight.

The Hon. D.W. RIDGWAY: Mr Chairman, if I may ask a question, clause 158—Consideration of proposed scheme, appears to apply to both schemes whether it is basic or general; is that correct? That is why we have confusion—we are trying to deal with two different beasts.

The Hon. K.J. MAHER: I am advised that subclauses (1)(a) and (1)(b) and (1)(c) deal with the basic scheme, whereas subclause (2) deals with the general scheme under subdivision 3.

Amendment carried.

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

Amendment No 69 [Emp–4]—

Page 136, line 37—Delete 'contributions' and substitute 'charges imposed under Subdivision 3'

This amendment has been made at the request of industry in order to clarify the intent of clause 158(2)(e).

The Hon. D.W. RIDGWAY: We are not going to oppose it, but I might just ask a question while I am on my feet. With SA Water augmentation charges on allotments, you are often required to pay them and it is a particularly long period of time before you may develop the allotment or whatever. I am just wondering with the basic scheme what obligation there will be on the relevant authority to deliver the infrastructure as soon as possible.

If a developer has paid their $5,000 an allotment for their 30 allotments, and the allotments have been created, what obligation is there on the local government, the state government or the relevant authority to deliver the interchange or whatever it is that is being funded by that contribution?

The Hon. K.J. MAHER: This amendment is about the general scheme. Do you want to ask the question about the basic scheme anyway?

The Hon. D.W. RIDGWAY: This whole clause covers both. It is about the basic scheme. Let's say there are 1,000 allotments in the proposed subdivision but it is done as you mentioned earlier, minister, in 10 or let's say 50 allotments at a time. It is $5,000 an allotment, so it is $250,000 each time the developer releases some allotments, or wants to, but what is the obligation on the relevant authority to deliver the infrastructure that has been funded?

The Hon. K.J. MAHER: The scheme coordinator sets out the timing as part of the scheme.

The Hon. D.W. RIDGWAY: As to the relevant authority, I think you said amendment No. 77, which we will get to shortly, makes sure that the council does not bear the liability, so I assume it will be the state government. There could well be a lengthy liability for the state government. I will use the freeway interchange as an example. It is required for this particular subdivision, it may take 20 years to subdivide it all and have all the fees paid on the basic scheme, yet the first residents will probably require that interchange.

Will it be agreed during the scheme negotiations by the scheme coordinator? It might only be available when the last 20 allotments are. When is the infrastructure likely to be built, and will the state government bear that liability until all the money is paid? Is that indexed as well? I think you said it was indexed with I assume some sort of interest component if it takes 10 years to pay for it.

The Hon. K.J. MAHER: I am advised that in terms of the timing, they are things to be negotiated as part of the scheme with the scheme coordinator. However, as a last resort, which I think is the sort of thing that the honourable members are wanting answers on, the chief executive can step in and take over the scheme to make sure that those things under the scheme are delivered. That is under clause 179 for the honourable member.

The Hon. D.W. RIDGWAY: I want to ask one question about a clause that we have talked about, being the excessively adverse clause, amendment No. 66, which we have now passed. I am inquiring as to whether other agencies like SA Water and other government agencies will be bound by the terms excessively adverse or even excessive. We often hear stories about horrendous amounts of money that SA Water expects people to pay in augmentation fees. Will the scheme coordinator have any role to play in saying, 'Hang on, SA Water, this is a ridiculous amount of money. Go back and sharpen your pencil.'?

The Hon. K.J. MAHER: I am advised that anything that is part of the scheme is subject to that.

The Hon. D.W. RIDGWAY: Subject to this provision?

The Hon. K.J. MAHER: Yes.

The Hon. D.W. RIDGWAY: Will the scheme coordinator be able to say—and let us just pick on SA Water—'That's an excessive amount of money. Go back and redo your calculations.'?

The Hon. K.J. MAHER: Potentially, yes, he is able to negotiate all those sorts of things. To clarify: he needs to negotiate the best deal for the scheme.

The Hon. M.C. PARNELL: Amendment No. 69 relates to the concept of rebates, and amendment No. 70 relates to the concept of exemptions. My understanding is that a rebate is effectively a discount. In other words, you will not have to pay as much as you would normally, and an exemption means you will not have to pay anything. The tests are similar, but not identical.

The test for a rebate is 'appropriate circumstances'; the test for an exemption is 'depending on the circumstances of the case'. I have a couple of questions, but my first question is: do exemptions and rebates apply to both your basic, essential infrastructure, as well as the general infrastructure scheme? In other words, is it possible for it to apply to both?

The Hon. K.J. MAHER: In relation to the first question, the particular provisions you are referring to relate to subdivision 3, which relates to the general scheme.

The Hon. M.C. PARNELL: Yes, but government amendment No. 64, which we have just passed, also has reference to rebates and exemptions. Do they also apply just to the general scheme?

The Hon. K.J. MAHER: Subclauses (1a)(e) and (f) that you are referring to apply to the basic scheme.

The Hon. M.C. PARNELL: I think the answer I have just got is that there are two different locations: you can get exemptions and rebates in the basic scheme, and you can get exemptions and rebates in the general scheme. The next question is: what are the circumstances that the government has in mind whereby someone might get a rebate or an exemption?

The Hon. K.J. MAHER: That will be up to the circumstances and with the scheme coordinator on that case. As it happens, I do not think there is a specific thing that is in mind that is contemplated; that will be up to the scheme coordinator.

The Hon. M.C. PARNELL: Yes, I understand that the detail has not been written, but it seems to me that you could have rebates and exemptions on the basis of the use of land like, for example, you saying: 'Well, they're building a church', or, 'They're building a school; we won't make them pay.' You could have rebates and exemptions on the ability of the person to pay: 'Oh, they're poor; we won't make them pay.' Are both those situations possibly relevant: the use of land, and the means of the responsible person?

The Hon. K.J. MAHER: In the examples you have given, certainly the former one would be something that may be likely. The advice is the second one would be unlikely. Certainly, that first example you gave may well be an area where that is considered.

The Hon. D.W. RIDGWAY: I am interested in exemptions. If you give an exemption—and I am talking about the general scheme, rather than a basic scheme—would it be an open-ended exemption indefinitely, or a set period of time? The reason I ask that is that I could see a scenario where you want 100 per cent agreement—you have 70 per cent agreement, then you go in and offer all of the 30 per cent of people who have not agreed an exemption for a period of time.

If it is open-ended, that is great, but if it is an exemption until they sell their property and then the next person buys it, then suddenly they are saddled with a charge that may well already be levied on the title. I am just interested to know because I think all of us accept that 100 per cent agreement is going to be—unless you have one or two landowners—an extremely difficult task to achieve. I am suspicious that there is a mechanism somewhere in this bill to, in effect, make it all happen with giving maybe the 20 or 30 per cent who do not agree some sort of exemption for a period of time.

The Hon. K.J. MAHER: It is certainly not the intention, and under subclause (3)(a) they can be limited by regulations where that subclause (3) will apply in any circumstances prescribed by regulations.

Amendment carried.

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

Amendment No 70 [Emp–4]—

Page 136, after line 37—Insert:

(f) exemptions from the imposition of charges imposed under Subdivision 3 should be considered depending on the circumstances of the case.

This amendment is consequential and relates to the inclusion of the principle in subclause 158(1a)(f). The exemptions from the imposition of charges should be considered in the circumstances of the individual case.

Amendment carried.

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

Amendment No 71 [Emp–4]—

Page 137, line 5—After 'contribution area' insert 'under Subdivision 3'

I can inform the chamber that this amendment has been made at the request of industry to clarify the intent of subsection 158(2)(e).

Amendment carried.

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

Amendment No 72 [Emp–4]—

Page 137, after line 10—Insert:

(3a) In addition to subsection (2)(f), exemptions from the imposition of a charge imposed under Subdivision 3 will apply in any circumstances prescribed by the regulations.

This revised subclause provides that the regulations may set out circumstances under which an exemption to a charge may be made; e.g. it could be applicable to land use for community services.

Amendment carried.

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

Amendment No 73 [Emp–4]—

Page 137, after line 12—Insert:

(5) The Minister must publish a copy of a report furnished under subsection (4) on the SA planning portal as soon as is reasonably practicable after determining whether or not to proceed with the scheme to which the report relates, subject to any qualifications or redactions that apply under section 53 or under a practice direction published by the Commission for the purposes of this provision.

This amendment is to ensure transparency and accountability. Any report prepared for the consideration of the minister by the scheme coordinator must be published as soon as it is reasonably practicable, subject to any statutory qualifications or redactions, on the SA planning portal.

The Hon. D.W. RIDGWAY: I have a question of the minister. It states:

The minister must publish a copy of a report furnished under subsection (4) on the SA planning portal as soon as is reasonably practicable after determining whether or not to proceed with the scheme to which the report relates, subject to any qualifications or redactions…

Often these reports are published within so many working days, or two months. When they are parliamentary reports it is so many sitting days. Given that we have been inserting things like 'excessively adverse' and stuff that the Hon. Mark Parnell and I think are a bit over the top, what is 'reasonably practicable'? Is it as soon as the scheme coordinator gets around to it? What if he has had his annual leave and has been to the cricket and the footy? What does it mean?

The Hon. K.J. MAHER: I think it will be determined in the circumstances of the common meaning of 'reasonably practicable'. Certainly this is something that courts have interpreted for a very long period of time and, if necessary, we would be able to do it under this.

Amendment carried; clause as amended passed.

New subdivision 1B.

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

Amendment No 74 [Emp–4]—

Page 137, before line 13—Insert:

Subdivision 1B—Adoption of proposed scheme and related operational matters

New subdivision inserted.

Clause 159.

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

Amendment No 75 [Emp–4]—

Page 137, after line 18—Insert:

(1a) However, the Minister must, before making a variation, exclusion or inclusion under subsection (1)(a) that will involve a significant change to the scheme, refer the scheme (including the proposed variation, exclusion or inclusion) to the scheme coordinator for the scheme coordinator to consider and report to the Minister on the scheme in accordance with section 158 as if it were a proposed scheme under that section.

This amendment puts in place a requirement that the minister must seek the advice of the scheme coordinator before making a variation, exclusion or inclusion to the scheme. This provision has been included at the request of industry. It introduces an additional safeguard to ensure that any variation is sustainable and able to be accommodated within the scope of the scheme.

The Hon. D.W. RIDGWAY: It states that 'the minister must, before making a variation, exclusion or inclusion to the scheme'. I just wonder why it is the minister and not potentially the planning commissioner or the planning commission. We had an appetite from the government and from the opposition to remove the minister from these decisions. I just wonder why the minister is still in this role.

The Hon. K.J. MAHER: I thank the honourable member for his question in relation to this. Certainly in large parts of the bill we have all agreed to giving as much power as possible to the commission. In relation to this, under this subclause the minister is the one who determines to proceed with the scheme, and it is the minister who is the one who determines not to proceed with the scheme, and that is why it is the minister in relation to the variation in the subclause.

The Hon. D.W. RIDGWAY: I am not sure—I know that there subsequent amendments, but I have not read them thoroughly. Is there any requirement on the minister either to report to the parliament or report on the portal about variations to any particular scheme?

The Hon. K.J. MAHER: I am advised that it is in clause 159(2), that if the minister decides to proceed with the scheme it must be published, and subclause (5)(a) provides for it as well.

Amendment carried.

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

Amendment No 76 [Emp–4]—

Page 137, after line 28—Insert:

(5a) The Minister must, before making a variation that will involve a significant change to the scheme—

(a) if the scheme provides for the imposition of a charge under Subdivision 2A, give consideration to whether or not such a charge should be included in the scheme, taking into account the variation and the matters referred to in section 155B(9); and

(b) seek the advice of the Commission; and

(c) take reasonable steps to consult with the council within whose area the scheme is proposed to be undertaken and, if relevant, any council whose area may include the whole or any part of a proposed contribution area; and

(d) take reasonable steps to consult with the owners of any land that would be directly affected by any infrastructure or works to be provided or undertaken under the proposal scheme; and

(e) consult with any other person or body as the Minister thinks fit,

and the Minister must then refer the scheme (as proposed to be varied) to the scheme coordinator.

(5b) The scheme coordinator must, on a referral under subsection (5a), consider and report to the Minister on the scheme in accordance with section 158 as if it were a proposed scheme under that section.

This amendment puts in place the requirement that, should the minister propose to make a significant variation or exclusion or inclusion in a scheme, then the proposal must be subject to the same

consultation requirements that would be required for a new application. This amendment again was included at the request of industry and will expressly ensure that all processes associated with the approval of the scheme are transparent and open.

Amendment carried.

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

Amendment No 77 [Emp–4]—

Page 137, after line 33—Insert:

(8) To avoid doubt, the liabilities of a scheme will accrue under the terms of the scheme (and, if relevant, against a fund established under Subdivision 4 and not against a council that is required to make contributions under Subdivision 3).

(9) Once a scheme has been adopted by the Minister, the Chief Executive must ensure that the Commission is kept informed about the operation of the scheme (and any significant changes to the scheme) under an arrangement established by the Chief Executive in consultation with the Commission.

In consultation with industry, this clause has been amended to provide additional checks and balances. New subclause 159(8) puts beyond any doubt that a scheme's liability—for example, for contributions not made—will accrue against its fund rather than the council responsible for collecting the contributions. This provision has been added following consultation with and in response to feedback provided from the Local Government Association.

Clause 159(9) has been put forward at the request of industry and provides a feedback mechanism to the commission on the operation of the scheme. The commission may exercise its powers under clause 22(3) if it believes variations to the scheme are required or other matters should be brought to the attention of the minister. Once the minister has received the commission's advice, he or she could use the powers conferred by clauses 159(4), 159(5) and 159(5a) to vary a scheme to address the commission's concerns or give effect to its advice.

Similarly, clause 157 enables the chief executive, with the concurrence of the commission, to replace or appoint a scheme coordinator. Clause 159(9) provides a mechanism to ensure the commission is fully apprised of all matters relating to the operation of a scheme and, by inference, the performance of a scheme coordinator.

The Hon. D.W. RIDGWAY: The question I would ask is about liabilities that accrue. I think the minister mentioned that the liabilities for the unpaid contributions are held against the fund (I think that was what he was saying). To go back to the 1,000-allotment subdivision broken up into 20 lots of 50, a trigger point would be, say, half of them, so 10 lots of 50 allotments is the trigger, or it is agreed that the new interchange will be built onto the freeway, and the local council or state government (but, more importantly, the local council) is the approved authority to collect the money and do the works.

But then we have a downturn in the economy, much like we are experiencing now, and the intention would have been to release the next 500 allotments, recover that money and have the scheme fully funded. But, you could go through a period of time where land sales cease for unforeseen circumstances, and you have a local council with a liability for an asset that they have built and for which they have no way of paying.

The Hon. K.J. MAHER: My advice in relation to this is that the scheme coordinator is essentially the project manager. The scheme coordinator is not going to be incurring debt and then effectively trying to get it back on credit later on. There are provisions for reviews of such a scheme or for unforeseen circumstances, as we have debated just recently.

The Hon. D.W. RIDGWAY: I am concerned, and I will use the 1,000 allotments example. For fire safety reasons, it is deemed that you need that exit onto the freeway, and it has to be built after 500 allotments because the residents cannot physically get out if there happens to be a catastrophic fire day. So, it is built, and the cost of that bit of infrastructure is apportioned across all of the 1,000 allotments, but the 500 allotment point is the trigger point. It is built for every good reason—for fire safety, for the residents who are in there—but then who holds the liability if it is local government, the market flattens out and we do not sell the other 500 allotments?

The Hon. K.J. MAHER: I am advised that it is the job of the scheme coordinator to look at these things, think them through and, if there are issues that relate to safety, to think through how they will operate in relation to a subdivision that you are talking about. That is the role of the scheme coordinator.

The Hon. D.W. RIDGWAY: I think you miss my point, minister. If a local council builds a piece of infrastructure, and they are expecting revenue over the life of that subdivision, over a time frame that has been agreed to, and then, due to unforeseen circumstances, there is no revenue, who holds the liability? Does the state government step in and say, 'Sorry, council. We will pick up the problem'? I guess my concern is that this bill will eventually pass and it will be in place for another 20 or 30 years. You are probably hoping you will never visit it again, but it will be in for a very long period of time. We need to make sure that everybody understands and we get it right.

The Hon. K.J. MAHER: Clause 155B(7)(f) provides that the minister must seek to facilitate provision of infrastructure in a timely manner. In relation to the particular question from the Leader of the Opposition, I think the council can build infrastructure at any time, that is their call; they can decide to get a loan to build it in advance or they can wait to build it in relation to when money is supplied pursuant to such a scheme.

The Hon. D.W. RIDGWAY: I am sorry to labour this point, but I guess it is the fire safety issue. Whether it is at Blackwood Park, or whatever that subdivision is up behind where I live in the Coromandel Valley area up there, there have been discussions that that is a bit of a fire trap because there is no access onto other roads and we are, of course, mindful that bushfires seem to be more intense and move faster than ever before these days. If you have a subdivision that requires a certain amount of access to be provided at a trigger point of, as I said, 500 allotments but then the market goes flat, I am interested in who holds the liability.

The minister said that the council could build the infrastructure if they chose to or they could wait until they collected all the money, but if part of the agreement is that for fire safety reasons, for exit reasons, you need to have access to the freeway after 500 allotments—say 1,000 or 1,500 people living there—who holds liability if, for whatever reason, the subdivision stalls?

The Hon. K.J. MAHER: The sorts of issues that are being agitated at the moment are parts of the current deed arrangements that currently apply with developments. Certainly, under the new arrangements it would be the scheme coordinator who would decide. In the examples the honourable member has given, it is likely that there would be consultation with, say, the CFS and it would be the scheme coordinator who would then decide, for example, that it may be an absolute priority for safety issues that that should be the very first thing to be taken into account at the very start rather than later on. It would be the scheme coordinator doing this in consultation, in the example you have given, with possibly the CFS. That would be something that the scheme coordinator would take into account.

The Hon. D.W. RIDGWAY: I understand that, minister. So the CFS says, 'You should have that access built in straightaway,' and council builds it. The cost is agreed by the scheme coordinator and it is $5,000 an allotment over the 1,000 allotments, so $5 million; but then council does not get its revenue because the property market goes flat.

My question then is: who holds the liability? Is it, 'Bad luck, council, you have to fund the loan and whack it onto the rest of your ratepayers,' or does the state government step in and say, 'Okay, this is part of the development procedure; we will help you through that process.'? What could happen is that you could have a whole range of ratepayers who are not getting any benefit from that bit of infrastructure, but who are paying for it because the property market has gone flat.

The Hon. K.J. MAHER: I thank the honourable member for his qualification. Under a basic scheme, it is the fund that is liable to fund these things. It is not the council that is liable to fund these things. I understand the question you are asking. If there was something that was that crucial for safety reasons, the scheme coordinator almost certainly would make sure it was funded at the very start rather than at a point down the track where things have fallen over—if it was that critical for very basic human safety.

The Hon. J.A. DARLEY: Forgetting about infrastructure, if a subdivider subdivided land and the market went flat, the normal thing that would happen would be, if rates and taxes were not paid,

the land could be sold up under the Crown Rates and Taxes Recovery Act. Would not the same sort of provision apply where a council or the government put up the money and yet the developer could not pay it?

The Hon. K.J. MAHER: The honourable member is correct. Under clause 163D, there is the provision for enforcement of a charge.

The Hon. D.W. RIDGWAY: Sorry to keep labouring this, but I am just intrigued. The fund would be liable. How does the fund borrow money? Who underwrites the fund? Is it state government? Is it council? Because if you do not get all the money up-front and it is predicated on a revenue stream over time, who underwrites the liability of the fund?

The Hon. K.J. MAHER: I think it is quite simple. Under the basic scheme, there is a provision, as we have talked about. It is an up-front charge, but it could be triggered by different events, selling off your 20 or 50 or 100 lots, and it is up to the scheme coordinator, but if you do not have the money under a particular part, you would not build it. The scheme coordinator is responsible for putting the scheme in place. If you do not have the money, you would not build it.

The Hon. D.W. RIDGWAY: Minister, sorry to be delaying it, but the scenario you use where there are 20 allotments at a time but it has been determined that we need to build this infrastructure to service this development of a certain size (we will use the 1,000 allotments) and as the developers are releasing 20 and 30 to the market, they are paying their $5,000 an allotment. If the infrastructure has already been built, who actually carries the liability? In the modern world, somebody has to pay. Banks do not just give you money.

The Hon. K.J. MAHER: It is not envisaged you would have to pay equal amounts each time allotments were sold off. The scheme coordinator would likely say, 'If you don't put up the money'—and it could be triggered by that first event of selling that first amount off. The scheme could easily provide for that first event, which triggers enough to pay for whatever that first infrastructure is. That is part of the scheme; that is the whole idea of having these schemes and the scheme coordinator. It is unlikely to be the case that if you sell them off in lots of 20 that each 20 would incur exactly the same fee as you go along. It could be that the vast majority of the fee is payable on that first one to fund that critical infrastructure, particularly if in consultation it is needed for human safety.

It is not the case it would necessarily be that on each trigger event there would be equal payments made. This would be part of what the scheme coordinator does working in the scheme and in consultation. It might be that basic infrastructure for the whole development could well be payable under the first event that is triggered.

The Hon. J.A. DARLEY: Would this not be similar to a situation we have at the moment with Skye? SA Water are going to provide SA Water to the Skye residents, but they have to sign a guarantee that they will pay so much per annum until it is paid. If they fail to pay, SA Water will recover it, at the very worst, by selling the land.

The Hon. K.J. MAHER: That could be the mechanism under the scheme. It also could be the mechanism that, at the very first trigger event, there could be the payment necessary and if that does not happen, it does not go ahead. The development does not go ahead if it is set down that at the first event you need so much to pay for all this basic infrastructure for the whole development. If at the first event it is not paid, then it does not go ahead. That is a possibility, the scenario the Hon. John Darley put forward, yes.

The Hon. D.W. RIDGWAY: My understanding of the basic scheme is that a scheme coordinator sits down with the developer or developers—there could be multiple developers, as we used in the Mount Barker example—and they agree on all the infrastructure that is required. They work out that it is so much per hectare at that point, which then equates, as the developer cuts their blocks up, into however many—400, 500, 600 or 700 square metres. They get a yield per hectare, so it comes back to an amount per allotment. That is agreed at the beginning.

The issue we are trying to avoid is the Mount Barker one, where there is this argument and arm wrestle over who is paying for what, so it is all agreed beforehand. My understanding is that there is the same charge per hectare or allotment. Although it is a bit awkward with allotments because they might all be different sizes, let's say there is the same charge per hectare right across

the whole scheme. What you are saying, minister, is that we might pay a heap up-front and then pay a lot less later on. I am not sure that is what industry is expecting.

I think industry is saying that they expect to have an agreement that gives them certainty that it is $50,000 a hectare or whatever it is so they know exactly what they are up for, not like this issue we had over Mount Barker. I think we need some more clarification.

The Hon. K.J. MAHER: Absolutely. That is very much contemplated under this scheme; if there is that payment up-front and that is not made, then that particular development will not be able to go ahead. If the scheme does not look suitable, there are safeguards in place. The commission or the minister can make sure if there is any concern about the scheme, that it does not provide what it should, there are those safeguards.

The Hon. D.W. RIDGWAY: I will ask one more question. I genuinely do not think that the minister or his advisers are grasping what the issue is. Industry wants certainty and that is why it has gone down this path of saying, 'We want a basic scheme where we can have all these requirements on the table. We agree on a fee and we pay it. Government agrees on their share, so everybody accepts that.' You said five minutes ago that you could maybe have a different rate of charges across different allotments depending on the timing of things. I am not sure that is what industry wants. I do not know whether they are listening to this streaming tonight, but I will ask them to have a look at it tomorrow.

I will use the 1,000 allotments. It is $5 million worth of infrastructure that is agreed, so it is $5,000 an allotment and somebody goes and builds it. You said the fund is liable. You might only have half a million dollars in the fund, but somebody goes and builds the infrastructure because there is an expectation in good faith that the development is going to roll out as everybody expects. Who actually underwrites the fund? Is it local government? Is it state government?

If you are going to do $5 million worth of work as a result of a subdivision, and the developers are not expecting to pay it up-front but expecting to pay it as they release allotments, who carries the liability until all the allotments are sold?

The Hon. K.J. MAHER: Certainly, that certainty is what this aims to provide for. If it is the wish of the developer in an area that it is an up-front payment that is paid and it is one single up-front payment per hectare for a development to occur, then that is what can be negotiated and that is what the scheme can provide if, as you quite rightly point out, that is what industry wants. That can be negotiated and that could be the scheme that is put in place, yes.

The Hon. D.W. RIDGWAY: I would like the minister and his adviser to consider overnight, because I am sure we are not going to finish this this evening—

The Hon. M.C. Parnell: We might.

The Hon. D.W. RIDGWAY: The ever-optimistic Hon. Mark Parnell. Who holds the liability? Who underwrites the fund or the scheme—is it state government or is it council—until that money is paid?

The Hon. K.J. MAHER: I very much hope that this provides an answer to what I think the honourable member is asking. It is not the council that bears liability: it is very clear under new subclause (8) that I think we talked about before:

> To avoid doubt, the liabilities of a scheme will accrue under the terms of the scheme (and, if relevant, against a fund established under Subdivision (4) and not against a council that is required to make contributions under Subdivision 3).

If everything goes completely pear-shaped, but it is decided that the public interest is served by whatever has been started being finished, clause 179 allows the CE to step in and complete works and clause 172 allows for a winding-up of the scheme by the CE. At the end of the day, if it is deemed to be in the public good, the state government can have that ability to step in and finish something—if, in some of the examples you have given, it is determined that that is in the public good.

The Hon. D.W. RIDGWAY: Just as clarification, the state government holds the liability for the fund? If you look at subclause (8) it states:

To avoid doubt, the liabilities of a scheme will accrue under the terms of the scheme (and, if relevant, against a fund established under [the scheme] and not against a council…

But I assume council collects the money—the opposition has been advised that council collects it—but it is then paid to the fund and the state government underwrites the fund and holds the liability.

The Hon. K.J. MAHER: I can confirm for the honourable member, in the broadest possible sense, that ultimately at the end of the day, yes, the state government. For the sake of clarification, I talked about a moment ago about clause 172, the winding-up of the scheme. It says:

(1) The Minister may, on the recommendation of, or after consultation with, the scheme coordinator, wind up a scheme under this Division

Amendment carried; clause as amended passed.

Clause 160.

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

Amendment No 78 [Emp–4]—

Page 138, line 2—After 'to the Minister about' insert:

the enforcement of any charge under Subdivision 2A or

This amendment clarifies the scope of paragraph (b) and the role of the scheme coordinator. It has been made at the request of industry to ensure that the scheme coordinator is able to put appropriate information before the minister for their consideration regarding any decision to enforce payment of a charge.

Amendment carried.

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

Amendment No 79 [Emp–4]—

Page 138, after line 10—Insert:

(2) Without limiting subsection (1), the scheme coordinator should seek to ensure that essential infrastructure is procured and delivered in a timely manner and at reasonable cost and, in so doing, apply and act in accordance with the following principles:

(a) the cost of essential infrastructure should be open and transparent;

(b) the design of, and procurement processes for, essential infrastructure should be dynamic, flexible and adaptable to the changes in circumstances, especially changes within a designated growth area or contribution area;

(c) essential infrastructure should be delivered in a way that facilitates and promotes orderly and economic development, economic growth and employment.

(3) In addition, the scheme coordinator should, insofar as is reasonable, seek out and bring to the attention of the Chief Executive any additional or alternative funding sources that could ensure that charges and contributions under any funding arrangement for infrastructure under the relevant scheme as kept as low as possible.

Following discussion with industry, subclauses (2) and (3) have been inserted to put beyond doubt that one of the fundamental tasks of the scheme coordinator is to seek to ensure that essential infrastructure is procured and delivered in a timely manner and at a reasonable cost. This must be achieved in accordance with the principles that the cost of essential infrastructure is to be open and transparent and the design of and procurement for essential infrastructure should be dynamic, flexible and adaptable to changes in circumstances and that essential infrastructure should be delivered in a way that facilitates and provides orderly and economic development, economic growth and employment.

In particular, subclause (3) reinforces that it is the fundamental duty of the scheme coordinator to minimise infrastructure costs by continuing to seek out and bring to the attention of the chief executive additional or alternative sources of funding which could be applied to the infrastructure scheme.

The Hon. M.C. PARNELL: Is this the first time that the word 'dynamic' has appeared in the South Australian statute book?

The Hon. K.J. MAHER: I could not say for sure. A word search might find it, but he has provided some amusement to parliamentary counsel.

The Hon. D.W. RIDGWAY: This is again a relatively simple question, I suspect. I look at amendments to clause 160. If you look at clause 160, which starts on page 137, the title is 'Role of the scheme coordinator in relation to delivery of the scheme'. It starts out at (a) and then on page 138, (b), (c), (d) and (e). The minister's amendment says 'insert (2) and (3) but there is no (1). Where is number (1)?

The Hon. K.J. MAHER: I think this just needs redrafting to make the first one number 1 when you inserted (2) and (3). I am certain that is the case but I will double-check. I understand what you are saying. It is the technical way parliamentary counsel redrafts it when you insert clauses afterwards.

Amendment carried; clause as amended passed.

Clause 161.

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

Amendment No 80 [Emp–4]—

Page 138, after line 18—Insert:

(iia) the imposition of a charge under Subdivision 2A, including by establishing a designated growth area;

The Hon. K.J. MAHER: This subparagraph expands the range of funding arrangements available under subdivision 2 and relates in particular to the imposition of an exemption to a charge on land by regulation or agreement—161(1)(a)(ii) including by establishing a designated growth area as part of a general infrastructure scheme.

The Hon. M.C. PARNELL: I have questions in relation to the whole of clause 161, which is quite a lengthy clause. It has the concept of parliamentary scrutiny built into it and it appears to be almost identical to the earlier clauses that relate to how the Environment, Resources and Development Committee deals with other planning documents. Ultimately, in a nutshell, these infrastructure schemes have to be sent to the environment committee. The environment committee can reject them, accept them or recommend changes. There are various time limits for doing that.

There is also a provision which says that if the minister has had a chat to the ERD Committee early on, then the ERD Committee can effectively give up the right to veto the scheme later on—so that does parallel the parliamentary scrutiny provisions we have seen earlier. However, there is one interesting aspect—and I did not raise it earlier but I will raise it now: is there any expectation that the ERD Committee might operate with a level of transparency that is consistent with other aspects of this legislation? I say that as a person who has been on that committee for 10 years. The agendas are never published, the minutes are never published, and the resolutions of the committee are never published. In fact, the only—

The Hon. R.I. Lucas: Don't you have an annual report?

The Hon. M.C. PARNELL: Yes, there is an annual report, but it does not set out all of the resolutions that were made.

The Hon. R.I. Lucas: But you could.

The Hon. M.C. PARNELL: Maybe we could. It is perhaps beyond this exercise because we are talking about the Parliamentary Committees Act and changes that might be made, but it seems to me that in the spirit of transparency that is supposedly in this bill, with the online portal, there might be some scope for increasing the accountability of the parliament's scrutiny of these documents as well. I just ask the minister if that is something that he could take on board.

The Hon. K.J. MAHER: As the honourable member pointed out, this bill does not propose any changes to the way a particular parliamentary committee operates. That is something for another

matter and another time to consider, but I am happy to take the points that have been raised back to the minister responsible for this bill and let him know the views that have been expressed.

Amendment carried.

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

Amendment No 81 [Emp–4]—

Page 138, line 22—After 'under' insert:

Subdivision 2A or

This is a consequential amendment relating to government amendment No. 31, which inserted subdivision 2A—Charges on land.

Amendment carried.

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

Amendment No 82 [Emp–4]—

Page 138, after line 30—Insert:

(aa) a scheme that provides for the imposition of a charge under Subdivision 2A—

(i) may provide for the indexing of the charge under an index, or at a rate, determined or approved by the ESCOSA, or by some other prescribed person or body; and

(ii) must specify arrangements for the periodic review of the charge under the relevant scheme and, as part of such a review, may provide for any matter to be considered or determined by ESCOSA, or by some other prescribed person or body; and

Clause 161(2)(aa) provides for infrastructure scheme charges to be indexed and periodically reviewed by an independent entity such as ESCOSA or other body of persons prescribed in regulations. The requirement that any person or body other than ESCOSA be prescribed by regulations which are disallowable provides an initial point of scrutiny over the process of imposing a charge. This amendment has been inserted with consultation and at the suggestion of industry.

The Hon. D.W. RIDGWAY: I have a quick question. Which scheme does this relate to: the basic scheme or the general scheme?

The Hon. K.J. MAHER: My advice is that this new paragraph (aa) is about the basic scheme.

The Hon. D.W. RIDGWAY: Just for clarification again, if it is agreed that we are going to build $5 million worth of infrastructure from our 1,000 allotments at $5,000 an allotment and it is built, why should the charges on the allotments, if the capital cost is agreed at $5 million, be indexed over time if we have already agreed on the price and paid the price?

The Hon. K.J. MAHER: An example might be in relation to charges being periodically reviewed. The prices still might dramatically increase or go down and might substantially affect infrastructure, so it allows for that review.

The Hon. D.W. RIDGWAY: If we go back to the discussion—I think it was last night—when we talked about the life of the infrastructure, I wonder whether that was again about maintenance.

The Hon. K.J. MAHER: General scheme.

The Hon. D.W. RIDGWAY: That was the general scheme, but is it just the basic scheme or does it relate to any—

The Hon. K.J. MAHER: Just the basic scheme.

The Hon. D.W. RIDGWAY: So, it is just the basic scheme. Again, I could understand if the works were agreed and they were not going to be built for a period of time, and let us say the $5 million cost went to $7 million or $8 million for the imaginary piece of infrastructure that this development needs. I could imagine over time that you might have some increase, but if it has

already been built and the construction is finished why would you be paying more later on when it is already paid for and the developers have agreed on a price?

The Hon. K.J. MAHER: Yes, I think the answer to that is that this is the basic scheme. It is payable upon a trigger, so it is payable when that trigger occurs.

The Hon. D.W. RIDGWAY: Is agreement reached by the developers? If we use the Mount Barker example: a group of developers all own different parts of land, everybody agrees on the scheme, they sign up to it and there is an agreed price. Surely if you needed to allow for inflation—and I am not sure that you would—would you not factor that into the scheme and get that agreed up front? I just cannot work out why you would have increasing prices or contributions, the indexing of the charge under an index or at a rate determined or approved by ESCOSA, without getting an agreement up front.

The Hon. K.J. MAHER: There is a review mechanism built into the scheme; for example, if there was a massive crash in the price of steel, you would sensibly want that to be reviewed to take that into account. We talked about making sure stuff is at a reasonable charge and not gold-plated. You want to make sure those unforeseen circumstances can be taken into account.

The Hon. D.W. RIDGWAY: For a crash in the price of steel, you would not have an indexed charge; you would have an indexed rebate because that infrastructure would cost less and you would give money back to the scheme. I am not quite sure why—and the Hon. Mark Parnell and I were having a little discussion off air—you would not just factor in a level of indexation at the original agreement, and then ESCOSA is not required to make a determination if everybody agrees, or is it that if the government makes an unrealistic increase in the charge the scheme has ESCOSA as the umpire to say, 'This isn't fair'?

The Hon. K.J. MAHER: In the example, absolutely you could take that and factor it into the scheme that is being made. Industry asked for this so that there is an independent umpire in the process.

The CHAIR: Satisfied?

The Hon. D.W. RIDGWAY: No, I am not, but I am sure I will get industry to comment on that overnight.

Amendment carried.

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

Amendment No 83 [Emp–4]—

Page 138, line 35—Delete 'specified' and substitute 'prescribed'

This amendment has been made in response to concerns raised by industry. The requirement that any person or body other than ESCOSA must be prescribed by disallowable regulation provides for an initial point from which the parliament can scrutinise the process of imposing a charge.

The Hon. D.W. RIDGWAY: Is that so that we can disallow ESCOSA?

The Hon. K.J. Maher: Other than ESCOSA; a body other than ESCOSA, that can be disallowed.

The Hon. D.W. RIDGWAY: Other than ESCOSA. Okay, fine; I was not listening. My apologies.

Amendment carried.

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

Amendment No 84 [Emp–4]—

Page 138, line 40—After 'paragraph' insert '(aa) or'

This is a consequential amendment relating to amendment No. 82.

Amendment carried.

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

Amendment No 85 [Emp–4]—

Page 139, lines 22 to 28—Delete paragraphs (a) and (b) and substitute:

(a) the Minister has made a recommendation for the purposes of this subsection to the Governor that the funding arrangement be approved; and

(b) the funding arrangement has been approved by all of the persons who, at the time that the Minister is submitting the funding arrangement for approval of the Governor under subsection (3), own land within the relevant contribution area or areas, other than—

(i) community land under the *Local Government Act 1999*; or

(ii) a public road under the *Local Government Act 1999*; or

(iii) dedicated land under the *Crown Land Management Act 2009*; or

(iv) land held by, or under the care, control or management of, the Urban Renewal Authority under the *Urban Renewal Act 1995*; or

(v) other land held for a public purpose excluded from the ambit of this definition by the regulations.

These amendments have resulted from discussions with industry and address the concern that the cost of providing civic infrastructure could be shifted onto the developer. This will only enable the minister to recommend to the Governor that a funding arrangement for a general infrastructure scheme, which involves the collection of contributions from landowners, be approved if all of the landowners agree to the scheme. The figure of 100 per cent, being the prescribed percentage of landowners who must agree as a prerequisite for the general infrastructure scheme to proceed, has been determined following consultation with industry.

The Hon. D.W. RIDGWAY: Could the minister repeat his opening remarks in relation to this clause? I think he said it was so that the contribution would be limited to a particular bit of infrastructure.

The Hon. K.J. MAHER: Which part?

The Hon. D.W. RIDGWAY: Can you repeat your opening remarks to this particular clause that you are moving an amendment on?

The Hon. K.J. MAHER: These amendments have resulted from discussions with industry and address its concerns that the cost of providing civic infrastructure could be shifted onto the developer. This will only enable the minister to recommend to the Governor that a funding arrangement for a general infrastructure scheme which involves the collection of all contributions from landowners be approved if all of the landowners agree to the scheme.

The Hon. D.W. RIDGWAY: The question I have is about civic infrastructure and I assume that is—well, I am not quite sure what you mean by that but my interpretation is streetscape, parks and stuff, but last night you said that was part of the general scheme that could be used for it so I just want some clarification.

The Hon. K.J. MAHER: I do not follow you.

The Hon. D.W. RIDGWAY: Did you not say that these amendments are to make sure that the burden of provision of civic infrastructure is not put onto to the developers?

The Hon. K.J. MAHER: Cost shifting.

The Hon. D.W. RIDGWAY: Cost shifting, but last night in the debate, minister, you were saying that whatever the scheme agrees—it might be a streetscape, it might be a park, it might some civic infrastructure—now you are saying it cannot be put onto the developers. I am confused because we have two different messages.

The Hon. K.J. MAHER: I can clarify that. When using that term, this industry had some concerns that infrastructure might include hospitals, schools, fire stations and we just want to make it clear that that is not the case.

The Hon. D.W. RIDGWAY: I was just going to say, unless it is agreed.

The Hon. K.J. MAHER: Yes, in the general scheme by 100 per cent agreement.

The Hon. D.W. RIDGWAY: By 100 per cent agreement.

The Hon. M.C. PARNELL: I do not want to delay the council but my understanding of the main purpose of this amendment was that it deletes the concept of a prescribed percentage of owners having to agree, which is then defined as 75 per cent, and replaces it with the new concept of 100 per cent, so I think the main purpose of this amendment is to introduce the 100 per cent concept.

The Hon. D.W. RIDGWAY: I am just concerned about the minister's—

The Hon. M.C. PARNELL: No, we have had a change of language which I can understand might have been confusing but—

The Hon. K.J. MAHER: I am just clarifying what that language meant.

The Hon. M.C. PARNELL: So, in terms of all of the angst that the development industry has been writing to us about over the last several months, the one issue that it seems that they wanted above all others was 100 per cent agreement to these infrastructure schemes, and this is the clause that delivers it, so that is my understanding of this clause. If the minister can—

The Hon. K.J. MAHER: Yes.

The Hon. M.C. PARNELL: He agrees—great.

Amendment carried.

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

Amendment No 86 [Emp–4]—

Page 139, lines 30 to 43—Delete paragraph (a) and substitute:

(a) the Minister must not make a recommendation under subsection (6)(a) unless or until—

(i) the Commission has taken reasonable steps to consult with—

(A) an entity or entities that, in the opinion of the Minister represent the interests of persons who are directly involved in providing infrastructure or developing land that may be subject to a scheme of the relevant kind under this Division; and

(B) if the funding arrangement is specifically relevant to a particular council or councils—that council or those councils; and

(C) the LGA; and

(D) any other person or body specified by the Minister; and

(ii) the Commission has furnished a report to the Minister—

(A) setting out the outcome of the consultation required under subparagraph (i); and

(B) recommending that the Minister make the recommendation under subsection (6)(a).

These amendments have resulted from discussion with industry. These provisions require the minister to receive a report in support from the state planning commission before she or he may proceed to recommend to the Governor a funding arrangement for a general infrastructure scheme which involves the collection of contributions from landowners.

The report must set out the results of the consultation undertaken by the commission in relation to this matter. This provision also sets out the personal bodies to be consulted, including infrastructure providers, land developers or their representatives, the LGA, the relevant council or councils and any other person or body that the minister specifies.

Amendment carried.

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

Amendment No 87 [Emp–4]—

Page 140, after line 3—Insert:

(7a) The Commission may only make a recommendation to the Minister under subsection (7)(a)(ii)(B) if the Commission is satisfied, having regard to any consultation on the scheme undertaken by the scheme coordinator, that the scheme provides for contributions under Subdivision 3, and rebates and other adjustments in relation to the contributions, in a manner that—

(a) is fair and equitable; and

(b) would not unreasonably disadvantage persons who own small areas of land within the relevant contribution area or areas; and

(c) is reasonable taking into account the matters referred to in section 156(5) and the principles referred to in section 158(2).

These provisions set out the matters the commission must take into account when consulting on a funding arrangement for a general infrastructure scheme which involves the collection or contributions from landowners. This provision is designed to ensure the contributions are fair and equitable and would unnecessarily disadvantage small landowners.

It also requires that other sources of funding have been considered and that contributions limited to recovering reasonable capital will not adversely impact on housing, living affordability, employment, investment or economic viability of the contribution area. In addition, the infrastructure must provide a direct benefit and not be gold plated, as we have talked about.

The Hon. M.C. PARNELL: I have a question on the words that are used. It talks about schemes that would not unreasonably disadvantage persons who own small areas of land within the relevant contribution area. When working out the contribution that people are going to be making, you could say every owner pays X amount, whether they own a big block or a small block, or you could do it on a square metre basis that you pay a certain amount per square metre. What does the government have in mind in dealing with the contributions that would be made by individual householders, for example, who might be caught within the contribution area?

The Hon. K.J. MAHER: It might be very small. A landowner might pay a commensurately small amount, but this is a general scheme so it would need 100 per cent agreement on the conditions.

The Hon. D.W. RIDGWAY: But you would have to be a bit clearer than that, minister. If you have varying sizes of properties, if it is a change in value, and we have often talked about value capture and uplift of the property, surely there has to be a formula to deal with, say, Mrs Ridgway in a little small house or the Hon. Mark Parnell in his great mansion with no significant trees in the backyard, but surely there has to be a sliding scale. Personally you might get the same benefit because there is a bit of infrastructure provided at your front door but surely there has to be a mechanism where the landowners pay commensurate to the size of their landholding?

The Hon. K.J. MAHER: This is about the commission making a recommendation to the minister that these things are taken into account. In terms of negotiating the scheme, the things that the Leader of the Opposition has outlined, I imagine absolutely would be taken into account when the scheme is not being negotiated, but this is in relation to the commission making recommendations to the minister who needs to take into account these things.

The Hon. D.W. RIDGWAY: I assume, on a point of clarification, that if you do not like it and do not agree; therefore the scheme does not go ahead.

The Hon. R.I. LUCAS: Could I clarify in relation to this 100 per cent agreement, the issue of strata title, for example? Is it the individual landowner within a strata title arrangement or is it the formal entity of the strata title that might outvote by majority the individuals? When the government says 100 per cent have to buy in, if a significant minority within a strata title arrangement were vehemently opposed but they got outvoted, what does the legislation provide?

The Hon. K.J. MAHER: I thank the honourable member for his question. My advice is that it would depend on how those body corporates' and individuals' strata titles operated and their own rules.

The Hon. R.I. LUCAS: Being the non-lawyer in this debate, the Hon. Mr Parnell gave me the value of his advice, and he was saying all persons who own land. How does the minister reconcile the response he has just given with what the Hon. Mr Parnell has just indicated in terms of, I would assume, an individual who owns land, albeit that it might be part of a body corporate. I guess that is where the legal argument comes into it.

The Hon. M.C. PARNELL: What I was referring to was in amendment No. 85, which we have passed, where it reads:

(b) the funding arrangement has been approved by all of the persons…who own land within the relevant contribution area…

My interpretation of that would be that if you own a flat on level 4 of a block, technically I think you own land. If a stratum of a building is part of the definition of 'land', the nature of 'strata' is that a large number of people can effectively own the same column or different strata of the column of land. I would have thought that every owner of every unit would have to agree.

The Hon. K.J. MAHER: I thank the honourable member for his question. It is a very technical question, and I am happy to take that on notice and bring back a response to exactly the meaning of that. I do not want to give an answer that is not as correct as my advice is at the time, so I will take that on notice and bring back a response for the honourable member.

The Hon. J.A. DARLEY: In my experience—and I have owned a few strata titles—the strata corporation owns nothing; it is the individual owners of the titles.

Amendment carried.

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

Amendment No 88 [Emp–4]—

Page 141, lines 22 and 23—Delete the definition of *prescribed percentage*

It is consequential; it becomes redundant.

Amendment carried; clause as amended passed.

Clauses 162 and 163 passed.

New Clauses 163A, 163B, 163C and 163D.

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

Amendment No 89 [Emp–4]—

Page 141, after line 30—Insert:

Subdivision 2A—Charges on land

163A—Application of Subdivision

This Subdivision applies with respect to charges for the purposes of a scheme initiated under Subdivision A2.

163B—Creation of charge

(1) The Minister may impose a charge under this Subdivision over land within a designated growth area.

(2) The Minister may impose a charge over land with or without the agreement of the owner of the land.

(3) For the purpose of the imposition of a charge, the Minister may deliver to the Registrar-General a notice, in a form determined by the Registrar-General—

(a) setting out or incorporating the terms of the charge; and

(b) setting out the real property over which it exists; and

(c) requesting the Registrar-General to note the charge against the relevant instrument of title or, in the case of land not under the provisions of the *Real Property Act 1886*, against the land.

(4) The Registrar-General must, on receipt of a notice under subsection (3), in relation to the real property referred to in the notice, enter an appropriate notation in accordance with the notice.

(5) When an entry is made under subsection (4), a charge over the real property is created.

(6) The terms and conditions of the charge may be varied—

(a) by the Minister after consultation with the owner of the land to which the charge relates (and with or without the agreement of the owner of the land); or

(b) on account of a periodic review under section 161(2)(aa); or

(c) in circumstances prescribed by the regulations.

(7) A variation under subsection (6) will be effected in a manner determined by the Minister after consultation with the Registrar-General.

(8) The Minister must, when payments under a charge have been made and paid in full, by further notice to the Registrar-General under this section, cancel the charge.

163C—Ranking of charge

(1) While a charge exists over real property, the Registrar-General must not register an instrument affecting the property unless—

(a) the instrument was executed before the charge was created or relates to an instrument registered before the charge was created; or

(b) the instrument is an instrument of a prescribed class; or

(c) the Minister consents to the registration in writing; or

(d) the instrument is expressed to be subject to the charge; or

(e) the instrument is a duly stamped conveyance that relates to the transfer or sale of the real property under section 163D.

(2) An instrument registered under subsection (1)(a), (b), or (c) has effect, in relation to the charge, as if it had been registered before the charge was created.

(3) If an instrument is registered under subsection (1)(e), the charge will be taken to be cancelled and the Registrar-General must make the appropriate entries to give effect to the cancellation.

163D—Enforcement of charge

(1) If a person fails to comply with the terms and conditions of a charge, the charge may be enforced as follows:

(a) the Minister must, by notice in the Gazette, inform the person of the breach and give the person at least 1 month to remedy the breach; and

(b) if the person does not remedy the breach within the time allowed in a notice under paragraph (a), the Minister may proceed to have the land to which the charge relates sold.

(2) The sale will be by public auction (and the Minister may set a reserve price for the purposes of the sale).

(3) If, before the date of such an auction, the outstanding amount of the charge and the costs incurred by the Minister in proceeding under this section are paid to the Minister, the Minister must call off the auction.

(4) The requirement to sell at auction does not apply in any circumstances prescribed by the regulations.

(5) If—

(a) an auction fails; or

(b) an auction is not required under subsection (4),

the Minister may sell the land by private contract for the best price that the Minister may reasonably obtain.

(6) Any money required by the Minister in respect of the sale of land under this section will be applied as follows:

(a) firstly—in paying the costs of the sale and any other costs of a prescribed kind;

(b) secondly—in discharging any liabilities secured by instrument registered before the charge was created, or that is taken to have such effect by virtue of section 163C;

(c) thirdly—in discharging the amount or amounts secured by the charge;

(d) fourthly—in discharging any other liabilities secured by registered instruments;

(e) fifthly—in discharging any other liabilities that exist in relation to the land of which the Minister has notice;

(f) sixthly—in payment to the owner of the land.

(7) The title obtained under the sale of the land will be free of—

(a) any charge under this Subdivision; and

(b) all other liabilities discharged under subsection (6); and

(c) any other liability that may exist on account of any mortgage, charge or encumbrance.

(8) If land is sold, an instrument of transfer or conveyance in pursuance of the sale executed by the Minister will, on registration or enrolment, operate to vest title to the land in the person named in the transfer or conveyance.

(9) If it is not reasonably practicable to obtain the duplicate certificate of title to land that is sold in pursuance of this section (or other relevant instrument), the Registrar-General may register a transfer or conveyance despite the non-production of the duplicate (or instrument), but in that event will cancel the existing certificate of title for the land and issue a new certificate in the name of the transferee.

This clause inserts a new subdivision which applies to charges imposed on a basic or general infrastructure scheme instituted under subdivision A2.

The Hon. D.W. RIDGWAY: I notice subclause (2) states:

(2) The Minister may impose a charge over land with or without the agreement of the owner of the land.

The Hon. K.J. MAHER: That is in the next one, 163B, amendment No. 89.

The Hon. D.W. RIDGWAY: Yes, but we are dealing with amendment No. 89, aren't we? It includes all these new sections. You moved amendment No. 89, and it is a new subdivision 2A—it is several pages. Proposed new clause 163B(2) states:

(2) The Minister may impose a charge over land with or without the agreement of the owner of the land.

That is mentioned again at subclause (6)(a):

(a) …the Minister after consultation with the owner of the land to which the charge relates (and with or without the agreement of the owner of the land);

I am just intrigued. You have talked about 100 per cent agreement, and now you are saying that we can do it whether—

The Hon. K.J. MAHER: This is back to the basic scheme.

The Hon. D.W. RIDGWAY: We are going back to the basic scheme now?

The Hon. K.J. MAHER: Yes.

The Hon. D.W. RIDGWAY: I will ask about the basic scheme.

The Hon. K.J. MAHER: It is under the basic scheme. Under subdivision A2, which is the basic scheme. This is just the basic scheme.

The Hon. D.W. RIDGWAY: Effectively, in the basic scheme, if you have a landowner—and I just want some clarification. We have been told that if a farmer owns the land and chooses not to ever sell his land he can still farm and he is not paying any charges. But if he chooses to sell it—

The Hon. K.J. MAHER: The designated land.

The Hon. D.W. RIDGWAY: Inside the designated area, yes, you could have a farming property inside the designated area, I assume. I am just wondering how the minister can impose a charge on somewhere that does not ever agree with the charge. It does not make sense.

The Hon. K.J. MAHER: The trigger events set out in clause 158(1b) are the depositing of a plan for a division of land or undertaking an approved development. In the example you have given, it has to be one of those two things that are effectively the trigger event. So if a farmer wanted to continue farming the land, that event would not be a trigger and there would not be the charge.

The Hon. D.W. RIDGWAY: My question is: what are the circumstances in which a minister can impose a charge over land without the agreement of the landowner? If it is a basic scheme, my understanding is that everybody negotiates and agrees with the scheme coordinator to the basic scheme and they all agree to a charge. We have been told that if a farmer has a property and does not wish to subdivide or sell, he or she can just keep farming and no charge will be imposed. I am just interested in how the minister can impose a charge over land without the agreement of the owner of the land.

The Hon. K.J. MAHER: This is to avoid that sort of Swiss cheese effect with each tiny part having different provisions apply. There would be a charge but that charge is not payable until one of those two trigger events occurs. So in the case of a farmer continuing to farm his land, even if it is rezoned, for example, unless one of those two trigger events occurs, that is not payable.

It is not the case that under this scheme someone will have to pay without wanting to pay. It is only if one of those two trigger events occur, that is if subdivision or development commences. If you just keep farming the land, you do not have a payment that you have to make. However, if you want to take advantage of the uplift of the value in that area and you want to subdivide or commence development, then yes, it does become payable. But in the example you have given, a farmer who wants to continue to farm is not going to have to pay this charge.

The Hon. D.W. RIDGWAY: I understand that, but why would you have a clause that says that a minister may impose a charge over the land without the agreement of the landowner—with or without? Either they agree to the subdivision or they just keep farming. Why would you impose a charge without agreement? I thought this was all about getting agreement.

The Hon. K.J. MAHER: This is one of the fundamental notions of this basic scheme: getting rid of that Swiss cheese sort of approach, where you might have someone who—in your example, the farmer—does not want to be part of a basic scheme. Everyone else around them is contributing because there has been a trigger event on their land—a subdivision or development.

They are contributing to the basic scheme for that infrastructure and then at some point they find, 'Oh actually, I would like to get a free right of benefit off everyone else having paid and do one of these things and subdivide or commence development there.' If you do that then you are liable for the charge that is over the land, but if you do not and you want to keep farming you are not liable for it. That is one of the fundamental purposes created by this basic scheme to make sure that all those who get a benefit are contributing.

The Hon. D.W. RIDGWAY: Surely, minister, you would just not allow for the subdivision to take place. You would not grant the allotment to the developer if they had not participated in the scheme. The government holds all the cards. You cannot create an allotment and develop it without section 51 being excised.

The Hon. K.J. MAHER: That is right, they do not make the payment. You would not grant the approval for those things to happen, you are quite right.

The Hon. M.C. PARNELL: So that I understand the Hon. David Ridgway's question (he will defend himself if I have it wrong), if we have the farmer whose land has been rezoned from farming to housing, they are the one person in the middle of this great expanse who is determined to keep

growing broccoli, they have no intention of subdividing, the question would be: if they have a single certificate of title, for example, for 100 hectares or whatever, will they have anything registered on their title, or will something only be registered on the title when they lodge a subdivision application, and then they are brought into the scheme so they are not freeloading, as the minister said? The question would be: could a farmer, without his or her agreement, have something on their certificate of title that notes that some future action might trigger a liability to pay money?

The Hon. K.J. MAHER: My advice is that in the example you have given the charge would be registered against the certificate of title. That means, in the example we talked about earlier, that it is known about on that piece of land for a subsequent event that is one of those triggers.

The Hon. M.C. PARNELL: Let's say that the farmer decides to sell her or his land to another farmer—

The Hon. D.W. Ridgway: That's not a change of land use.

The Hon. M.C. PARNELL: No, it is not a change of use.

Members interjecting:

The Hon. M.C. PARNELL: No, that is right, but it is on the title. My vague recollection from doing conveyancing back in the early 1980s is that, if you are a purchaser, you want to make sure that everything that is on the title, all the encumbrances, get taken off. Will there be any fee or charge that a subsequent purchaser might have to pay, or will this notation on the title just remain there with the new owner noted? Is there likely to be any cost? There is no triggerable event—they are not going to subdivide, they are going to keep growing broccoli—so will the subsequent owner have to pay anything as a consequence of having this notation on the title?

The Hon. K.J. Maher: You are not asking can they get it off, you are just asking has it changed the title?

The Hon. M.C. PARNELL: Yes. It will not be taken off, because they are potentially liable in the future to have to pay something.

The Hon. K.J. MAHER: My advice is that it is like any encumbrance—a right of way or anything else on the land—you do not pay extra to have that transferred as part of a conveyance of land.

The Hon. D.W. RIDGWAY: It is my understanding, from discussions with the expert who represented the UDIA, that there are no encumbrances on the property of a farmer who continues to farm. It is only at the point that there is a change of land use, to subdivide it, that they are liable to any charge or any payment. Of course there is a scheme, they are in the designated area, so with that change of land use I think everybody accepts they would be required to pay their share per allotment. My understanding, from what the expert has told me, is that there is no encumbrance on that farmer's property, other than that there may be an option with the developer to sell and some other arrangements with the developer. However, as far as the scheme, my understanding from what the UDIA experts have told me, is that there are no encumbrances on that land.

I am intrigued as to why you would then be able to attach an encumbrance to somebody's land who does not wish to change his or her land use and just wants to keep doing what they are doing. Regardless of the Swiss cheese analogy, the UDIA has told us that there will be no trigger of payment until the land use is changed.

The Hon. K.J. MAHER: There is no payment or charge to be made until that trigger event happens. Certainly, the effect is that, should one of those triggers happen, that will be payable, and that is recognised on the title, but that is all it is. If you want to keep using the land as you do, it merely sits on the title to denote that, in the future, if there is one of those triggers, then these charges do become payable.

The Hon. D.W. RIDGWAY: I would assume, minister, that all that would be on the title would be that it would be now located within a designated growth area. There would be no reference to charges. It would just be, 'Your farm, this allotment, is in the designated area of Mount Barker,' because if you do not ever change the land use there is no liability.

The Hon. K.J. MAHER: You are quite right. If you do not ever change the land use, or subsequent buyers do not ever change the land use, then there is no liability; it is only on those events. If you never change the land use, whether you never do it or whether 40 buyers into the future never change the land use, then this never becomes payable—that is exactly right.

The Hon. D.W. RIDGWAY: I still want to know why you would be able to impose a charge over the land without the agreement of the owner. Everybody has agreed; it does not make sense.

The Hon. K.J. MAHER: I am advised the charge is a charge over the land—that is the mechanism by which it is registered on the title. It is not a charge as in, 'We are going to charge you $1,000': it is the charge over the land that is registered on the title. It is not that the minister will force you to pay, but that encumbrance may be on the title. It is the use of charge in the property law sense of being able to register your certificate of title, not a charge as in, 'We are going to charge you money.' Your mortgage is a charge against your house.

The Hon. M.C. PARNELL: Just to move to a slightly different topic that is also included within this amendment, if worse comes to worse and people do not pay, then there is a mechanism in here for basically selling the land and recovering the money that is owed. One of the proposed new sections, 163D—Enforcement of charge, sets out the sort of pecking order, if you like, when the land is sold.

Basically, what it says is that, if you have a forced sale of someone's land in order to recover the money that is owed, firstly, you have to pay for the cost of the sale; and, secondly, if there are any sort of pre-existing mortgages to the bank, for example—that was the question I was asking yesterday—pre-existing registered mortgages get paid. The infrastructure charges we are talking about come in third, and then there are other lower ranking priorities.

There are some other amounts of money that people might owe that are also charges against the land—for example, unpaid council rates—so, my question is: where in the pecking order would unpaid council rates fit? If someone has got to the point where you are selling their land for not paying an infrastructure contribution, chances are they probably have not being paying their council rates for some years either. My question is: do council rates rank higher or lower than infrastructure charges?

The Hon. K.J. MAHER: I am advised that council rates would be fifth, so below the discharge of these liabilities.

The Hon. M.C. PARNELL: I thank the minister for his answer; that was my interpretation as well. You would hope that the amount they get for the block of land would cover all the debts that are owed, but if it were a property that was very heavily mortgaged—you know, 90 per cent to the bank—the pecking order therefore becomes important, because the people at the bottom of the list do not get paid. They are the ones who miss out.

The Hon. K.J. Maher: That can be the case now, though.

The Hon. M.C. PARNELL: Yes, but I guess my point is that if someone is going to miss out then the council is going to miss out before the infrastructure provider misses out. However, I do not need to take it any further; the minister has answered the question.

The Hon. D.W. RIDGWAY: I would like to ask a question; my colleague was questioning me and I did not have an answer. We used the Hon. Mark Parnell's broccoli farmer, but I would prefer to use a brussels sprout farmer because I am happier for them to disappear than the broccoli. Let us say that they have farmed there for 30 years and it is 100 hectares in the middle of 1,000 hectares, a bit like Mount Barker. They have been there for 30 years and all the infrastructure is built, and there are trees and everything looks perfect, but it is 100 hectares.

They are still required to pay their $5,000 an allotment that we have been using as a notional figure, yet everything is funded. Does that still go to the scheme? If everything is funded what happens to that money? Looking further back at one of the earlier amendments, these charges could be indexed; so over 30 years, $5,000 an allotment at CPI is probably $10,000 an allotment. Who actually gets that money if the infrastructure has already been paid for and delivered?

The Hon. K.J. MAHER: That is a very good question. We do not have an immediate answer in that circumstance where, for example, 50 or 60 years down the track the broccoli farmer is the only hold-out that there has been and then they decide to develop one of those two triggerable events. I will take that on notice and bring back an answer as to exactly how that would relate. We do not have an answer right now about how the scheme would react to such an event. It is a sensible question.

New clauses inserted.

Clauses 164 to 167 passed.

Clause 168.

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

Amendment No 90 [Emp–4]—

Page 144, after line 36—Insert:

(6a) If a council incurs costs in recovering a charge as a debt, the council is entitled to claim the reimbursement of those costs (insofar as they are reasonable) from the relevant fund established under Subdivision 4.

This clause makes it clear that, where a council incurs costs in recovering a charge as a debt, it is entitled to recover those costs. This provision has been added following consultation with the Local Government Association.

The PRESIDENT: Are we all happy with that?

The Hon. D.W. RIDGWAY: I am happy, but I do want to ask a question I had a little note to ask some time ago about the basic scheme. Given that the minister says we are here until 11 or 12 o'clock tonight, I will ask it. We often talk about the farming situation—the Hon. Mark Parnell's broccoli farmer, or I have talked about farms—but I wonder, and I use Bowden as an example where you have a parcel of land in the city, can there be a basic scheme for the delivery of a new exit onto Park Terrace and some infrastructure that is required to make that scheme work? Brownfields to city is a general scheme and the basic scheme is in the country (a farming property) but my understanding is the basic scheme would apply to developments like that, I think. I just want a clarification.

The Hon. K.J. MAHER: With the basic scheme, the primary intention is for that sort of broadacre development, as has been pointed out, but if it is a large-scale urban infill development, then, yes, it has the potential to apply there.

Amendment carried; clause as amended passed.

Clause 169 passed.

Clause 170.

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

Amendment No 91 [Emp–4]—

Page 145, line 18—Delete 'Subdivision 3' and substitute:

Subdivision A2 or 1 (including in conjunction with the operation of Subdivision 2A or 3)

Each infrastructure scheme will have a fund established into which funds will be paid. These funds will be applied towards the purpose of the scheme. These amendments are consequential in that they provide that money from charges on land which are payable to the minister are paid to the fund.

The Hon. D.W. RIDGWAY: I have some questions in relation to the fund. My colleague the Hon. Mr Lucas, having been a treasurer and a shadow treasurer, is not here. Clause (2)(c) is 'any money advanced or made available by the Treasurer for the purposes of the fund'. I assume that the Treasurer may advance the funds of money to do some particular works and then recover that cost as money is paid into the fund. Is that what is envisaged or am I not reading it accurately?

The Hon. K.J. MAHER: Yes, that is correct.

Amendment carried.

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

Amendment No 92 [Emp–4]—

Page 145, line 20—Delete paragraph (a) and substitute:

(a) any money—

(i) payable to the Minister under a charge imposed under Subdivision A2 (including under Subdivision 2A); or

(ii) payable by a council and recovered under Subdivision 3; and

This amendment is consequential on the last amendment.

Amendment carried; clause as amended passed.

Clauses 171 to 192 passed.

Clause 193.

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

Amendment No 12 [Parnell–2]—

Page 167, lines 1 to 11—Delete paragraph (c) and substitute:

(c) subject to subsection (3), the Court may, in dealing with an application from a person to be joined as a party to the proceedings (other than the Crown, a relevant authority applying under section 116, or a person who was entitled to be given notice of a decision in prescribed circumstances (if relevant)), determine to grant the application if the Court is satisfied that—

(i) the person has a special interest in the subject-matter of the application; or

(ii) the person is seeking to protect the environment in the public interest (if relevant); or

(iii) the person should be joined as a party to the proceedings on another ground determined to be appropriate by the Court.

(3) Despite subsection (2)(c), the Court may refuse to grant an application from a person to be joined as a party to proceedings if the Court is not satisfied that the interests of justice require that the person be joined as a party.

We have just leapt pages ahead and we are well beyond infrastructure, so we need to get our heads out of that space and back into the territory of the member for Unley in another place and the member for Adelaide in another place. I want the Hon. David Ridgway to pay attention to the interests of those two of his colleagues because the amendment that I am proposing to clause 193 relates to people who have engaged in the process of commenting on a development and what the rights of those people are once a matter has ended up in court. I will give you a typical situation. Under the current system we have this notion of a category 2 development. It is, for example, the near neighbours of a proposed development, and we have used the—

The Hon. D.G.E. Hood interjecting:

The Hon. M.C. PARNELL: Yes, the Hon. Dennis Hood's example. We have not talked about Unley Road for a while, so we need to bring it back to Unley Road. That was a category 2 development, so the people who lived nearby, the people who were the immediately adjoining neighbours or within 60 metres, had the ability to comment on that development. They had the ability to go to the Development Assessment Commission, eyeball the commission and have their say and be heard.

If in that case the Development Assessment Commission had rejected the application and said no to that apartment building on Unley Road, then the developer would have had the legal right to take that to court. There would have been an appeal to the Environment, Resources and Development Court. It would have been the developer taking on the decision-maker. The question then arises: what role, if any, should those neighbours who participated in the process have? Should they have any rights as well?

Under the act as it currently is, and under this bill, they do not have an automatic right to be part of that appeal even though, for example, the reason that the Development Assessment Commission might have rejected the development was because of the excellent arguments put forward by the neighbours. That might be why they said no.

When it goes to court, at the suit of the would-be developer who is complaining that they should have been given approval and they were not, very often the neighbours want to participate in the court proceedings. What they have to do is lodge what is called an application for joinder. In other words, they are not a party as of right, but they have the ability to go to the court and say, 'Excuse me, court. We have a very valid and legitimate interest in this matter and we think you should allow us to be part of this court case.' To be honest, what the residents are often doing is trying to put a bit of backbone into the decision-maker to stop them caving in and effectively overturning their decision.

In relation to those joinder applications, under clause 193, the way the bill currently words it, it talks about circumstances in which the court should not allow someone to join and it basically says if the court is not satisfied that the person has a special interest they should not allow them to join the court case. What I have done in my amendment is pretty much take the substance of what is there and reverse it. My amendment talks about the things that the court should take into account in deciding to allow someone to join rather than the factors that should go to not allowing them to join.

I have kept all the same requirements of the government's bill, that is, that the person might have a special interest or that there is some other ground that the court thinks is appropriate to allow them to join. I have added one extra ground and that is that the person is seeking to protect the environment in the public interest. In other words, the bill already recognises someone who has a financial stake in it. They have a personal stake in it, they own the property next door and are directly affected and, hopefully they will be allowed to join.

You might have a situation where someone is not in it for their own personal gain but there is some public interest reason why they think they should be allowed to join the court case, and I want the court to be able to take that into account. My amendment does not oblige the court to let anyone join the court case. If the court does not think someone is going to add value to the proceedings, the court is going to say no, and that is just the way it is.

I do want the court to be able to at least frame the question in terms of, 'Who should we allow?' rather than, 'Who shouldn't we allow?' and they should also have in mind not just self-interest but also the public interest. If someone has something to contribute to the resolution of the dispute, then the court should at least be able to consider them for joinder. I think it is a fairly simple amendment. Hopefully, I have not made it sound too complicated. It is not radically different from what is there but I think, symbolically, it is important.

The Hon. K.J. MAHER: I appreciate the sentiments of, essentially, flipping that, as the Hon. Mark Parnell has outlined. However, the government opposes this amendment. It is our view it would unworkably broaden the standing to include absolutely any person or individual organisation seeking to protect the environment and public interest. The current provisions do not limit the court's consideration of economic interest alone, so we would oppose the amendment and suggest it remains as it is.

The Hon. D.W. RIDGWAY: I indicate the opposition agrees with the government on this and we will not be supporting the honourable member's amendment. It is long and we still have not completed the debate. We are supportive of reform and we are mindful that the Premier is on the record worried about the state being a rust bucket and he has gone somewhere overseas to the US to have a look at how they change those things. We are really mindful of the fact that we have to get this economy moving and when it comes to development, while we need some appropriate safeguards, we do not want to broaden it too far so that it could frustrate the whole process, so we will not be supporting the honourable member's amendment.

Amendment negatived; clause passed.

Clauses 194 to 201 passed.

Clause 202.

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

Amendment No 94 [Parnell–1]—

Page 175, lines 36 to 40—Delete subclause (15) and substitute:

(15) In proceedings under this section, the Court—

(a) must, if it is considering whether to make an order to provide security for the payment of costs that may be awarded against the applicant if the application is subsequently dismissed, take into account that matters set out in subsection (16a); and

(b) may not require an undertaking as to the payment of any amount that may be awarded against the applicant under subsection (16).

This is not consequential but it does relate to the same issue, and that is the issue of what we call third-party enforcement of planning laws. Something that is a fundamental principle of environmental law is that, normally, citizens should be able to rely on the proper authorities to do their job properly.

So, if someone has broken the law, a planning law or pollution law, you normally would expect that the proper authorities, whether it is the Development Assessment Commission or the planning commission, will take action to remedy the breach. However, there are circumstances where, for whatever reason, the proper authorities are unable or unwilling to act. In those circumstances it is important for citizens to be able to go to the umpire and enforce the law.

If the only people entitled to enforce the law are reluctant to do so, then the law becomes an ass, so we do need the ability for third parties to be able to go to court and say, 'These people have broken the law and we require orders forcing them to get back into compliance.' One of the barriers to court cases like that is the ability of the court to basically prevent groups, in particular, from mounting legal challenges by ordering what is called security for costs or undertakings as to damages. They are the two phrases.

Basically what it means is that a group, for example, would go to court and convince the court that they have an excellent case—it might even be a lay-down misère; they might be able to convince the court that there is a prima facie case that the law has been broken—and yet the developer (often the other side) can say to the court, 'We don't think their case is very strong. You need to force this group'—let's call it a residents group—'to put $100,000 into the trust account of the court before you let the case proceed.'

In other words, often the developer will say, 'We think we're going to win. We don't think they've got a strong case and we want them to put their money up-front.' Your average residents group at that point folds; it just cannot do it. You might have a meritorious case that never gets its day in court because the court orders that money has to be put in trust to compensate the developer for their legal costs in the event that the third party action fails.

Really, what my amendment No. 94 seeks to do is basically still allow for the court to make the decision. If the court thinks that it is a bit of a half-baked case and they do not think it is that meritorious and they think that the developer is likely to win, then the court can order that the money be put up-front, put in the court's trust account and that effectively will kill the court case—it will not go ahead.

What I want the court to take into account is a range of matters, including whether the application is being brought in the public interest or not. In other words, these cases are not brought lightly. If it is a group that is bringing the case because they think there is an important public interest element involved, then they should at least be given their day in court and they should not be ruled out at first base by having to put an unreasonable amount of money up-front into the court's trust account.

I have to say, for students of environmental law, that this provision has killed off some of the most meritorious cases in Australian history. They do not even get started because these groups, on the whole, do not have tens of thousands of dollars that they can just deposit into the court. They are usually volunteers, they usually have volunteer lawyers and they are usually pursuing the case in the public interest.

This is a series of amendments, Nos 94, 95 and 96—and I will do this as a test for them all—basically saying that the court, in deciding whether or not to force a third party to put money up-front,

has to take into account, if it is a body corporate or an unincorporated body, what is the purpose or objects. In other words, is it an environmental group or a residents group or a human rights group or whatever—they have to take that into account—and also whether or not the application is brought in the public interest.

I can think of a good example, being a case that I brought many years ago on behalf of the Whyalla Red Dust Action Group. Even though we are now despairing of what is happening in Whyalla, that has nothing to do with the environment; that has to do with the price of steel. Certainly the Environment Court basically said, 'No, this is a group of residents. They are incorporated. It is in the public interest. They should at least be able to test their case.'

If the court had said, 'You can only bring this case if you put $50,000 in the court's account,' the case would have died straightaway, and that would have been unjust because the very first thing the court said was, 'No, this company is causing a lot of pollution; they've got a case to answer.'

That was a case under the Environment Protection Act, but exactly the same principles apply under the Development Act. I do not want to go on any more about it than that. All I want to do is give the court some extra guidance to help them make a decision about whether they should rule cases out by using a financial penalty up-front or whether they should at least allow meritorious public interest cases to go to trial.

The Hon. K.J. MAHER: I thank the honourable member for his contribution. Whilst I understand his reasoning behind this amendment, the government opposes the amendment. The clause proposed in the bill provides for what is provided for in the Development Act in section 85(15). We do not support essentially broadening that to allow one to go to court potentially without any security so that, if costs were awarded against them and they could not pay, the party could not gain redress. We support what is in the current bill and basically transposing that provision into this new act.

The Hon. D.W. RIDGWAY: The Liberal Party party room has considered this amendment and we are with the government: we will not be supporting the honourable member's amendment.

The Hon. M.C. PARNELL: I fully expected that outcome, and given the hour, I will not be dividing. I just make the point that—

The Hon. D.W. Ridgway: Don't.

The Hon. M.C. PARNELL: It is an important point. When a provision is a direct copy of something that is in the current act, we are being urged to accept it because, 'It's just the same as what we've had before.' Yet, the vast bulk of this legislation we are dealing with is new stuff. We are being invited to revisit the planning scheme and the laws around it. I do not resile from the fact that I have been against this provision in section 85 of the Development Act since 1993. This is a rare opportunity I get to reagitate the question.

I can see that we do not have the numbers and I will have to just rely on the court to make sensible decisions. They are not obliged to require this up-front money from third parties bringing cases, so I am hoping that, even without the additional guidance that I was proposing to insert, they will still exercise caution and not effectively dismiss meritorious cases simply because the community group trying to enforce the law happens to be poor.

Amendment negatived.

The Hon. M.C. PARNELL: Amendments Nos 95 and 96 are consequential, so I will not be moving those.

Clause passed.

Clauses 203 to 210 passed.

Clause 211.

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

Amendment No 93 [Emp–4]—

Page 180, after line 16—Insert:

> (2a) The court must, in determining whether to make an adverse publicity order, take into account any material before the court relating to the effect that the taking of action or actions that the court proposes to specify in the order is likely to have on a person other than the offender.

This amendment has been made in response to industry concerns that the impact of naming and shaming businesses might result in job losses or business closure that would ultimately punish employees and families. The government has agreed that, while weighing up whether to issue an adverse publicity order, the court should be required to contemplate the potential broader impacts for those other than the offender beyond what was intended.

The Hon. D.W. RIDGWAY: Could the minister outline in relation to an adverse publicity order:

> …in relation to the person, (the offender) requiring the offender—
>
> (a) to take either or both of the following actions within the period specified in the order:
>
> (i) to publicise, in the way specified by the order, the offence, its consequences, the penalty imposed and any other related matter;
>
> (ii) to notify a specified person or specified class of person, in the way specified in the order, of the offence, its consequences, the penalty imposed and any other related matter;

I am just trying to work out in what circumstances you would make an adverse publicity order.

The Hon. K.J. MAHER: I am advised that the call would likely only be applied in quite egregious circumstances where the court thought that there was a need to warn the public.

The Hon. D.W. RIDGWAY: Warn the public of what, a clear and present danger to them, or a—

The Hon. K.J. MAHER: What circumstances?

The Hon. D.W. RIDGWAY: Yes, what would cause it? Is it their public safety, is it financial security, the building work is not safe? I am just interested to know in what circumstances you would issue an adverse publicity order.

The Hon. K.J. MAHER: An example might be if there was a builder with ongoing serious breaches about the quality of construction who is taken to court, and the court decided it was the public interest for that publicity order to then do that. That example would be a consumer protection measure, effectively.

Amendment carried.

The Hon. D.W. RIDGWAY: Mr Chairman, can I just ask a question about the amendment we have just had a vote on? I think the minister was saying that the court has to take into consideration whether the adverse publicity order will have some damaging effect potentially on employees and job losses, I think he said. If you have a builder that is doing something that is wrong and you make an adverse publicity order, they are going to stop building. That is my recollection of what your explanation was, so how can you have an adverse publicity order that does not have an impact on the business? Why would you do it?

The Hon. K.J. MAHER: That is just one factor that may be taken into account if there are groups of employees. It is just one of the factors that may be taken into account by the courts.

The Hon. D.W. RIDGWAY: What are all the other factors that the court has to take into consideration before issuing an adverse publicity order? If someone is doing something wrong and the public needs to be informed, there is no, 'Oh, well, we had better be quiet about it, we better not do it because somebody might lose their job.' If it is a public safety risk, a public risk or a financial risk to members of the public they have every right to know, regardless of the impact on the business.

The Hon. K.J. MAHER: By way of another example, it might be an ongoing planning breach, so it is not a clear and present danger (or the words that you used before) but a serious breach; but it might be one where the court does take into account the impact of that naming and shaming on

the business. It is just one of the factors taken into account so that the court might decide not to name and shame that would ultimately possibly punish employees and families.

The Hon. D.W. RIDGWAY: I will ask the industry for some clarification on that.

Clause as amended passed.

Clauses 212 to 230 passed.

Clause 231.

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

Amendment No 6 [Ridgway–4]—

Page 192, after line 5—Insert:

(1a) The Minister may only act under subsection (1) if the Minister is acting on the advice of the Commission.

This is one of the amendments from set 4 of my amendments to depoliticise it, if you like, and make sure that the minister has to act on advice from the commission and cannot act alone. It is one on which we have some support from the chamber, to try to make sure that the commission has much more power and to take away as much power as possible from the minister.

The Hon. K.J. MAHER: I thank the honourable member for his contribution and his amendment. This provision is derived from section 78 of the Development Act where the minister may acquire land through the process set out in the Land Acquisition Act 1969. The government opposes this amendment. It is our view that it unduly fetters the minister's power. This provision is used very sparingly and only for genuine public importance. It is also a power, as I said, that is subject to the provisions of the Land Acquisition Act. In exercising this power, the minister would be, as they should be, subject to parliamentary and public scrutiny if it were used inappropriately.

The Hon. M.C. PARNELL: I have a question of the minister. I understand that he said that there is a provision like this already in the Development Act. I am not aware of it ever having being used but it may have been. My question is: are there not heads of power under the existing acquisition of land laws that would be sufficient? In other words, we are very familiar, and the Hon. John Darley, in particular, has done a lot of work on people who are having their properties acquired because of road widening projects. Basically with government public infrastructure projects, if you need to put a pipeline down, you can acquire land.

What disturbs me a little about this clause is that it says that minister may acquire land where the minister thinks that it is reasonably necessary for the implementation of a development authorisation of a prescribed class. What that says to me is that, for any private developer who wants to do any form of development, the government just has to put it in the regulations and all of a sudden you have private developers effectively taking advantage of the compulsory acquisition of land, hanging onto the skirt of the minister. I think that is quite a worrying trend because compulsory acquisition, given the status of the right of property in our Western society, is not one that is lightly taken away.

I can see the Hon. David Ridgway's intention is to put some rigour into it by at least adding an extra level, or getting the commission involved. My basic question is: are there not powers sufficient in the existing Acquisition of Land Act; and is it correct that the minister could effectively prescribe any form of private development as being eligible for compulsory acquisition of land?

The Hon. K.J. MAHER: My advice in relation to that specific question is that the Land Acquisition Act provisions only apply if another act points to it.

The Hon. M.C. PARNELL: I will just give you an example from my youth. In the suburbs of Melbourne there was a developer who was building a shopping centre. It was quite a large shopping centre and they, by treaty, negotiated with all of the property owners there and they bought up all the houses and demolished them, and they all became the car park of the shopping centre, except for one little old lady, who I think was in her 80s or something.

She did not want to move; she was not interested in selling her house. It was not an issue of price; she had always lived there and she wanted to stay living there. What happened was they built

the development around her and so there was this little island, a little cottage standing alone by itself in the middle of a sea of car parking. People would say, 'Oh that's terrible, what is that house doing there?' Well, it was her house and she did not want to sell it.

It seems to me that, under this legislation, if we were to have a shopping centre-led economic recovery for South Australia, the government could prescribe that all shopping centres can take advantage of the compulsory acquisition of land, and it would seem to me that this provision could be used to force that person out of their home. They would be compensated, absolutely. They would go through the mechanism and they would get compensated, but it was not what they wanted; they wanted to stay. I give that as an example. I think it could lead to unfairness.

The Hon. D.G.E. Hood interjecting:

The Hon. M.C. PARNELL: *The Castle*. In fact, I think there is a prize for anyone who can invoke *The Castle*; certainly the lawyers have a prize for anyone who can invoke the vibe of the constitution, and the higher the court that you do it in I think the greater the kudos. I make that observation. I think it is a worrying clause, I accept that it already exists, but the Greens will be supporting the Liberal amendment which gives that extra level of scrutiny. The minister says it is unnecessary but I am nervous about how this clause could be used. I want an extra set of eyes cast over it.

The Hon. D.G.E. HOOD: Looking at the wording of the amendment, the amendment says that the minister may only act under subsection (1) if the minister is acting on the advice of the commission and, as honourable members have discussed, this particular part of the bill deals with the compulsory acquisition of land. We have had a longstanding practice, as the Hon. Mark Parnell admitted, where the acquisition of land is the role of the government through the minister in order to make that decision. Ministers do that very reluctantly. They certainly pay a heavy political price in the circumstances when they do it quite often, as we are experiencing at the moment here in Adelaide.

We will not be supporting the amendment. When ministers act in that regard, they are fully aware of the impact on the community and the potential political impact on them and their government if they get it wrong, so that in itself is a significant check and balance on any abuse of that. Some might argue that it is what the amendment's intention is, and that is to argue that it is ideal to have the commission have a role in that, but this amendment goes further than that. This amendment requires that the minister can only do it when the commission agrees, and that is a bridge too far for us.

The Hon. J.A. DARLEY: I will be supporting the government on this issue. I cannot think of a case where a minister has done this or any government department in the past.

The Hon. D.W. RIDGWAY: We have an opportunity. We have a select committee with the Hon. Mr Darley on compulsory acquisition of land on the north-south corridor. I would have thought the amendment we are proposing is that the planning commissioner gives advice to the minister that, yes, you must compulsorily acquire a particular property. I would have thought that is a sensible safeguard. The Hon. Mark Parnell has indicated the Greens are supporting the amendment, and his colleague the Hon. Tammy Franks I am sure will support it with him, but I am uncertain about the Hon. Kelly Vincent. I indicate that I will have to call for a division. Let's vote on it first.

Amendment carried; clause as amended passed.

New clauses 231A and 231B.

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

Amendment No 94 [Emp–4]—

Page 192, after line 11—Insert:

231A—Advisory committees on implementation of Act

(1) The Minister must establish the following committees to provide advice on the implementation of this Act:

(a) after consultation with the LGA, a committee that relates to the local government sector;

(b) a committee that relates to entities involved in undertaking development within the State.

(2) The Minister may, in establishing a committee under subsection (1), make provision with respect to—

(a) the membership of the committee; and

(b) the procedures of the committee; and

(c) the functions or scope of operation of the committee; and

(d) other matters as the Minister thinks fit.

(3) Nothing in this section limits any other committee or other entity that may be established, or any other step or other process that may be undertaken, in relation to the implementation of this Act.

231B—Inquiries by Commission

(1) The Commission must conduct the following inquiries under section 22(1)(e):

(a) an inquiry into schemes in relation to the provision of essential infrastructure under Part 13;

(b) an inquiry into the scheme for off-setting contributions and the open space contribution scheme under Part 15 Division 2.

(2) The inquiry under subsection (1)(a) must—

(a) investigate alternative schemes for the provision of essential infrastructure and make recommendations as to whether any such scheme should be adopted in this State; and

(b) investigate alternative schemes for the provision of prescribed infrastructure (within the meaning of section 161(18)) and make recommendations as to whether any such scheme should be adopted in this State; and

(c) consider such other matters as the Commission thinks fit.

(3) The inquiry under subsection (1)(b) must—

(a) investigate alternative schemes for off-setting contributions and contributing to open space and make recommendations as to whether any such scheme should be adopted in this State; and

(b) consider such other matters as the Commission thinks fit.

(4) The Commission must furnish the following reports on inquiries under this section to the Minister:

(a) a report on the outcome of the inquiry under subsection (1)(a) within 12 months after the commencement of this Act;

(b) a report on the outcome of the inquiry under subsection (1)(b) within 2 years after the commencement of this Act.

(5) The Minister must cause a copy of each report submitted to the Minister under this section to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

(6) A proclamation for the purposes of this Act fixing a day on which Part 13 Division 1 Subdivision 1 will come into operation cannot be made until after a report on the outcome of the inquiry under subsection (1)(a) has been laid before both Houses of Parliament.

The government moves this amendment in response to consultation with industry and the local government sector. Of course, the government considers both sectors are to be valuable partners in establishing a new planning system; hence, it has always been intended to consult with both groups regarding the implementation of planning reforms.

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

Amendment No 1 [Parnell–4]—

Amendment to Amendment No 94 [Emp–4]—New clause 231A(1)—after paragraph (b) insert:

(c) a committee that relates to—

(i) community participation; and

(ii) ecological sustainability and liveability,

with respect to planning, design and development.

The Greens will be supporting the government amendment because the honourable member is proposing to create two subcommittees or, rather, advisory committees. As he said, the development industry have wanted one, so they are getting one. The local government sector wants one, so they are getting one.

The Conservation Council wrote to me and said that one of the biggest criticisms of this legislation is that it is being driven by a development agenda and yet the government, through things like the community charter, has made some inroads into making sure that the views of communities are relevant. Therefore, it makes sense for there to be a third advisory committee, and that is one that represents community interests.

The words I have used are that, as well as the local government committee and the industry committee, we will have another committee that relates to community participation, ecological sustainability, and liveability. They are words I have taken from previous amendments; some of them were used by the Hon. Kelly Vincent. I think the words 'liveability' and 'ecological sustainability' were from the Hon. Kelly Vincent's amendments, and 'community participation' is just inherent in the legislation.

This is an important amendment because if it passes it will indicate that this parliament realises that the planning system is not just about the development lobby, it is not just about local government, but it is also about the community sector. I am supporting the government's two committees, and I am urging the council to support this third committee as well.

The Hon. K.J. MAHER: I will take a reverse order. The government indicates that it will be supporting the Hon. David Ridgway's amendment. In relation to the Hon. Mark Parnell's amendment, the government would prefer not to specify each separate issue. Under government amendment No. 94, new clause 231A (3) states:

(3) Nothing in this section limits any other committee or other entity that may be established

We would say you can do that anyway without the Hon. Mark Parnell's amendment. Having said that, we are not going to oppose the amendment even though we do not think it is necessarily the best way, and it can be done under there; but we will not be opposing the amendment.

The Hon. D.W. RIDGWAY: The opposition has had only partial feedback from industry and stakeholders in relation to the Hon. Mark Parnell's amendment; lukewarm support may be the best way to describe it, but lukewarm is better than cold. Given that we will be recommitting the bill—and we are happy to support it this evening—if there is some violent opposition to it, then we will consider that when we recommit.

The Hon. M.C. Parnell's amendment carried; new clause 231A as amended inserted.

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

Amendment No 1 [Ridgway–8]—

Amendment to Amendment No 94 [Emp-4]—

New clause 231B(4)(a)—delete 'within 12 months' and substitute 'no earlier than 2 years'

As members would be aware, this relates to inquiries by the planning commission into the infrastructure schemes that we have been debating for most of the day. My understanding of this provision is that, if you could not get 100 per cent agreement, the commission could have an inquiry into that scheme and make a recommendation or give a report. Subclause (5) provides:

The Minister must cause a copy of each report submitted to the Minister under this section to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

Subclause (4) provides:

The commission must furnish the following reports on inquiries under this section to the Minister:

(a) a report on the outcome of the inquiry under subsection (1)(a)—

And subclause (1)(a) is in relation to the schemes in relation to the provision of essential infrastructure—

within 12 months after the commencement of this Act;

We think that is too short a time frame and we would like to see it pushed out to 24 months, so we are inserting the words 'no earlier than 2 years'. I encourage members to support our amendment.

The Hon. K.J. MAHER: I previously indicated that we support the amendment.

The Hon. D.W. Ridgway's amendment carried; new clause 231B as amended inserted.

Clause 232 passed.

Schedule 1.

The Hon. M.C. PARNELL: I have some brief questions on schedule 1. I think schedule 1 is a good provision. It goes to the accountability and the transparency of potential conflicts of interest when it comes to decision-makers under the planning scheme. Basically my understanding is that schedule 1 proposes that certain people will have to disclose their interests in much the same way as I guess members of parliament disclose our interests annually. Elected members of local councils disclose their interests. This is proposing that key decision-makers and relevant officials disclose their interests as well.

There is an earlier clause that we have dealt with—I think it is clause 50 or clause 80—which basically has non-voting, occasional members of development assessment panels. In other words, we have panels of five members; we have five people: one local councillor, apparently, and four others, but there is also a provision for extra people to be appointed to panels in a non-voting role. My question is: will those people be caught by the disclosure requirements? Bear in mind that they might only ever be called to serve on one panel in relation to one development, being an issue in which they have some expertise, and they are non-voting members. Will those part-time, occasional members of panels also be required to disclose their interests under schedule 1?

The Hon. K.J. MAHER: I thank the honourable member for his question on this schedule. I am advised that, under clause 80(3)(a), occasionally members are taken to be members of panels in all respects; therefore, the disclosure provisions the honourable member has spoken about would apply.

The Hon. M.C. PARNELL: I thank the minister for his answer. It is a two-edged sword because at one level, yes, they are defined under clause 80 as members of panels, and therefore they will need to fill out a form. It may have impacts on the number of people who are willing to put themselves forward to serve as additional members on panels because they will know that all of their assets, liabilities and whatever will be on the public record. I will accept the answer.

My next question relates again to schedule 1, clause 5, which is restrictions on publication. This is a provision which basically says that, if you are going to access the details about the financial interests of, for example, panel members, you are not allowed to publicise that information, unless you do so fairly and accurately (I think that makes sense), but also there is an additional one: it has to be published in the public interest. I find that a curious provision, because journalists can trawl through the members of parliament register of interests, and I do not believe they are required to satisfy a public interest test before writing articles about the shareholding or property portfolios of members of parliament. That is my understanding; I will be corrected if I am wrong.

Similarly, with members of local councils, I do not believe there is a public interest test. In other words, if it is on the record, and if a journalist, provided they are not misquoting it, basically says, 'Councillor Smith owns 57 rental properties,' they should be allowed to say that regardless of whether it is in the public interest or not. My question is: where has this public interest test come from and does it apply to any other disclosure regimes in relation to disclosure of interest registers?

The Hon. K.J. MAHER: I am advised that is based on the current schedule 2, section 5 of the existing Development Act.

The Hon. M.C. PARNELL: My understanding is that we do not currently have a disclosure provision that relates to all of the decision-makers under the current Development Act. I could be wrong. I know the act reasonably well, but I have not looked at the back for a while. If the minister is telling me that every member of every development panel already has a disclosure of interests published out there, I am not aware of it, but I will stand corrected.

The Hon. K.J. MAHER: I am happy to take that on notice and bring back an answer that may be clearer. I have got the advisers looking at it now but, for the sake of the hour of the night, I will take that on notice and bring back an answer.

The Hon. M.C. Parnell: I am happy with that.

Schedule passed.

Schedules 2 to 5 passed.

Schedule 6.

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

Amendment No 95 [Emp–4]—

Page 213, after line 16—Insert:

(2) Section 221—after subsection (6) insert:

(7) Subsection (3)(b) operates subject to the following qualifications:

(a) an accredited professional under the *Planning, Development and Infrastructure Act 2015* may only grant an approval under subsection (3)(b) with the concurrence of the council; and

(b) any other relevant authority under the *Planning, Development and Infrastructure Act 2015* may only grant an approval under subsection (3)(b) after consultation with the council.

(8) The requirement to consult under subsection (7)(b) does not extend to an assessment panel appointed by the council.

This amendment has been drafted in response to concerns raised by the Local Government Association councils. The bill, as drafted, amends section 221 of the Local Government Act 1999 to provide that a person making an alteration to a public road is not required to obtain a separate authorisation of the council, if the alteration is approved as part of the development authorisation under the act.

Amendment carried.

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

Amendment No 96 [Emp–4]—

Page 213, after line 21—Insert:

(6b) Subsection (6a) operates subject to the following qualifications:

(a) an accredited professional under the *Planning, Development and Infrastructure Act 2015* may only grant an approval under subsection (6a) with the concurrence of the council; and

(b) any other relevant authority under the *Planning, Development and Infrastructure Act 2015* may only grant an approval under subsection (6a) after consultation with the council; and

(c) an approval to use the public road as envisaged by subsection (6a) will be for a period prescribed by the regulations (and, at the expiration of that period, this section will then apply in relation to the use of the road).

(6c) The requirement to consult under subsection (6b)(b) does not extend to an assessment panel appointed by the relevant council.

Again, this is a similar amendment that is being moved in relation to a response to concerns raised by the Local Government Association councils. The bill, as drafted, amends section 221 of the Local

Government Act 1999 to provide that a person does not require a permit authorising them to use a public road for business purposes, if the use of the road is approved as part of the development authorisation under the act.

Amendment carried; schedule as amended passed.

The Hon. K.J. MAHER: I will not be proceeding to move amendment No. 97. This is consequential on previous amendments.

The Hon. D.W. RIDGWAY: I think all members are aware that the bill, I suspect, as a whole will be recommitted. I want to put on the record whether the minister or the government has any new amendments to the bill. I know there has been some speculation about the potential for some other arrangements in relation to the urban growth boundary. I want to make sure that the minister here, and also minister Rau, are well aware—and we sit in a couple of weeks' time—that the opposition has a process where we like to provide our party room with information on about the Friday prior to a party room meeting.

If there are new amendments—not just recommitting existing amendments where we supported the Hon. Mark Parnell but now we might change our mind, or the other way round and we did not support him and we might change our mind—if it is not new material, then that is one set of circumstances; however, if there is new material or new amendments proposed we need to be given a reasonable amount of time to consult with industry on them.

I am fearful of what we saw last year when the minister did not have any consultation, and we have gone now for 11 or 12 days, about five weeks, of sitting, I think, because the minister failed to go through the normal process of going out to industry and consulting with a draft bill. I just want to put on the record that we will be very happy to progress the recommittal in an orderly fashion, but we ask the minister and the government, if there are new amendments or changes to the amendments we have seen, that we are provided with them in an early enough time frame, with the expectation that we will be given a reasonable amount of time to consult with industry.

This is a very important bill. I think everybody agrees that you do not come back and review the Planning, Development and Infrastructure Bill every couple of years; it is something that is done about once a generation. There was a little bit of it done when I was first elected—

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: No, the Hon. Mark Parnell gets quite excited about all this; it is the highlight of his parliamentary year to be immersed in the Development Act. Nonetheless, and putting aside all the humour, it is an important piece of legislation and we do not want to have to come back and revisit it. We want to be given adequate time to consider them, if there are new amendments. We have not seen any and we have not heard of any, but we have heard some whispers and speculation that there will be some changes to the urban growth boundary provisions, and we wish to have adequate time to consult with industry.

The Hon. K.J. MAHER: I thank the honourable member for the contribution he has just made. I will make absolutely sure that the minister responsible sees the comments he has made.

The Hon. D.W. RIDGWAY: I know it is late, but I will quickly add that we will not entertain debating the bill unless we have had reasonable time to consult with industry, and I would like to see some support from the crossbenchers from that point of view as well.

The Hon. M.C. PARNELL: Very briefly, my understanding is that having got to the end of the bill we could immediately recommit it and go back to clause 1. However, I think that would be an exercise in folly because nothing has really changed. I would be hoping to take the next week or two, certainly, to consult other parties and other stakeholders and talk to the planning minister about where we might go. I think that if we were to go straight back to clause 1 we would find that we would get exactly the same answers as we have got over the last five weeks.

I know the minister is keen to get the bill through, but I think that the best chance for getting a good bill is to just give us a little bit of breathing space now to revisit the decisions that have been made. Hopefully, the recommittal will be much faster as a result.

The Hon. J.A. DARLEY: I certainly agree with the sentiments of the Leader of the Opposition, and we will be working towards that end.

Title passed.

Bill reported with amendment.

STATUTES AMENDMENT (GENDER IDENTITY AND EQUITY) BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

At 23:00 the council adjourned until Thursday 10 March 2016 at 11:00.