LEGISLATIVE COUNCIL

Thursday, 25 February 2016

The PRESIDENT (Hon. R.P. Wortley) took the chair at 11:01 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) (11:02): I move:

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

Motion carried.

Bills

ABORIGINAL HERITAGE (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

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) (11:03): Obtained leave and introduced a bill for an act to amend the Aboriginal Heritage Act 1988. Read a first time.

Second Reading

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) (11:03): I move:

That this bill be now read a second time.

The Aboriginal Heritage Act 1988 provides for protection of all Aboriginal sites, objects and ancestral remains in South Australia. The act recognises that Aboriginal sites are not only the physical evidence of past Aboriginal occupation but are also integral to the enduring living Aboriginal culture and practised beliefs.

The current act commenced operation almost 30 years ago, and it was thought at that time that ministerial powers should frame decisions about how Aboriginal heritage would be protected and the circumstances in which it might be damaged.

In recognition of the fact that knowledge about the location and importance of certain areas protected by the act is only held by traditional owners, a practice has developed where government, developers and mining operators have sought to reach direct agreements with traditional owners regarding land use and around Aboriginal sites, objects and ancestral remains protected by the act. These agreements are not currently recognised under the act.

In addition, the recognition of native title over much of the state, with the balance largely subject to native title claim, has resulted in land access agreements being required with native title holders and claimants. It is common for these agreements to provide for site avoidance but, as with other non-native title agreements of this nature, they are not able to deal with matters requiring my authorisation under the current act.

In 2008, the government commenced a review of the Aboriginal Heritage Act and two key objectives of the proposed reform were to enable traditional owners to deal directly with land use proponents about the impact of their activities on Aboriginal heritage and the accommodation of native title holders and claimants within this structure.

The Aboriginal Heritage (Miscellaneous) Amendment Bill 2016 has been informed by consultation since 2008 across government, industry and, most importantly, with Aboriginal South Australians about these matters. The amendments proposed in this bill enable traditional owners to reach agreements in their own right with land use proponents who in turn gain certainty about who speaks for heritage in the area, and all benefit from the overall certainty of process. The agreement making process is not mandatory and does not require consultation as outlined under section 13 of the act.

To enable agreement making, the bill inserts a new part 2B which provides a process for Aboriginal bodies to apply to the South Australian Aboriginal Heritage Committee (the committee), a body that is already established under the current act, to become Recognised Aboriginal Representative Bodies (RARB or RARBs). Under new section 19B(4), where there has been a determination of native title the registered native title body corporate will automatically become the RARB unless it opts out or the committee does not approve it.

Pursuant to new section 19E, the committee has powers to revoke and in some cases suspend the appointment of a RARB. These powers exist to deal with a RARB that has failed to properly ascertain and represent traditional owners or where the RARB has failed or refused to perform its functions under the act. Pursuant to new section 19F, I also have a general power to, for example, revoke the appointment of a RARB and reappoint it, save for a specific site where I may appoint another body as the RARB. This provides checks and balances for traditional owners who may have interests in an area where the native title holder is the RARB.

Once a RARB is approved, it may enter into agreements with land use proponents under new part 3 division A1. Both the RARB and the land use proponent may then elect to negotiate at which point good faith negotiations commence. Once agreement is reached, I may approve it if I am satisfied that it satisfactorily deals with the Aboriginal heritage and, in doing so, I must make an authorisation that contains a condition that the person authorised must comply with the approved agreement. If agreement is not reached then I must consider the application for authorisation in accordance with the current requirements of the act.

In making division 1A agreements, the parties may provide for avoidance of known sites, objects or remains. The agreement may also provide a protocol for what might occur in the event that an Aboriginal site, object or remains not known about, is discovered and partly damaged or disturbed. As all Aboriginal heritage is protected, an agreement about site avoidance can now deal also with the possibility of damage to what is unknown by the parties with certainty that the act has been complied with.

Lastly, division A2 provides for the approval of agreements affecting Aboriginal heritage under the other acts. This division provides for the approval of native title agreements required under other legislation. New section 19N provides that I must be satisfied that the agreement satisfactorily deals with the Aboriginal sites, objects and remains in the area of the agreement.

Agreements of this kind do not have to be made with a RARB but, because they are made according to the requirements of other legislation, I am required to approve them if I am of the view that an additional regulatory burden is not required. Since consultation commenced in 2008, there has also been litigation about the meaning and effect of section 6(2) of the current act. Section 6(2) requires me to delegate my decision-making powers most often requested under section 23, to authorise damage to sites to the traditional owners on their request.

The impact of judicial decisions about the interplay between sections 23 and 6(2) has led to difficulties with the administration of the act. The current wording of section 6(2), where the minister must at the request of traditional owners delegate his powers, has proved to be impossible to determine since the act was introduced in 1988. There have been only a handful of section 6(2) requests and no 6(2) request has ever been successfully granted. The bill therefore repeals section 6(2) and 6(4) and provides that any current requests before me will be void and of no effect.

These amendments to the Aboriginal Heritage Act insert a framework that adopts existing and familiar agreement making practices that are commonly used outside the act, and invests them with certainty and regulatory force. The bill represents an important practical step for traditional owners to have a meaningful say about how their heritage is protected. By providing for native title

matters to be addressed under the heritage legislation, it also provides for much sought after efficiency and certainty for land use proponents. I commend the bill to members.

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

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Aboriginal Heritage Act 1988*

4—Amendment of section 3—Interpretation

This clause inserts definitions of key terms used by this measure into section 3 of the principal Act.

5—Amendment of section 6—Delegation

This clause deletes subsections (2) and (4) of section 6 of the principal Act.

6—Amendment of section 7—Aboriginal Heritage Committee

This clause makes a consequential amendment to section 7 of the principal Act.

7—Amendment of section 13—Consultation on determinations, authorisations and regulations

This clause makes a consequential amendment to section 13 of the principal Act to exclude from the scope of that section an authorisation in relation to which a local heritage agreement has been approved.

8—Amendment of section 14—Authorisations subject to conditions

This clause inserts new subsection 9(2) into section 14 of the principal Act, creating an offence where a person contravenes or fails to comply with a condition of an authorisation under the principal Act.

9—Insertion of Part 2A

This clause inserts new Part 2A into the principal Act as follows:

Part 2A—Aboriginal Heritage Guidelines

19A—Minister may publish guidelines

This section enables the Minister to publish guidelines for the purposes of the measure, and makes procedural provisions relating to making the guidelines.

Part 2B—Recognised Aboriginal Representative Bodies

19B—Recognised Aboriginal Representative Bodies

This section appoints, or provides for the appointment, of persons or bodies as Recognised Aboriginal Representative Bodies in respect of an area, or Aboriginal sites, objects or remains.

The section makes procedural provision in relation to such appointments.

19C—Priority where multiple applications

This section provides guidance to the Aboriginal Heritage Committee in the event there is more than 1 application to be the Recognised Aboriginal Representative Bodies in respect of a particular area, or Aboriginal site, object or remains.

19D—Additional functions of Recognised Aboriginal Representative Body

This section confers an additional advisory function on each Recognised Aboriginal Representative Body, as well as allowing the Minister or other Acts to confer functions on the bodies.

19E—Revocation and suspension of appointment of Recognised Aboriginal Representative Body by Committee

This section sets out the circumstances in which the appointment of each Recognised Aboriginal Representative Body must, or may, be suspended or revoked by the Committee.

19F—Revocation of appointment of Recognised Aboriginal Representative Body by Minister

This section sets out the circumstances in which the appointment of each Recognised Aboriginal Representative Body may be revoked by the Minister, and confers powers on the Minister to fill resultant vacancies, or give directions to the Committee.

19G—Register

This section requires the Committee to establish a register of Recognised Aboriginal Representative Bodies, and makes related procedural provision.

10—Insertion of Part 3 Divisions A1, A2 and A3

This clause inserts new Divisions A1, A2 and A3 into Part 3 of the principal Act as follows:

Division A1—Agreement making with Recognised Aboriginal Representative Bodies

19H—Negotiation of agreement with Recognised Aboriginal Representative Body

This section enables an applicant for an authorisation under section 21 or 23 of the principal Act to negotiate with a Recognised Aboriginal Representative Body, and enter a local heritage agreement accordingly. The section makes procedural provision in relation to local heritage agreements, including a requirement that they be approved by the Minister.

19I—Approval of local heritage agreement by Minister

This section sets out how a local heritage agreement is to be approved by the Minister.

19J—Minister to grant certain authorisations where local heritage agreement approved

This section requires the Minister, on approving a local heritage agreement, to grant an authorisation under Part 3 of the principal Act to which the agreement relates.

19K—Enforcement of local heritage agreement

This section provides that local heritage agreements can be enforced by a party on application to the District Court.

19L—Interaction of Division with other provisions

This section clarifies the relationship between the proposed Division A1 and other provisions of the principal Act.

Division A2—Agreements affecting Aboriginal heritage under other Acts

19M—Application of Division

This section sets out the agreements to which the proposed Division applies.

19N—Approval of agreements to which Division applies

This section sets out how an agreement referred to in proposed section 19M is to be approved by the Minister

19O—Variation, revocation or suspension of approval

This section empowers the Minister to vary, revoke or suspend the approval of an agreement under the proposed Division for any reason he or she thinks fit, and imposes a requirement of consultation with the Committee.

19P—Certain provisions of Part not to apply in relation to acts done under approved agreements

This section disapplies sections 21 and 23 in relation to things done, or not done, in accordance with an agreement to which the proposed Division applies.

Division A3—Register

19Q—Register

This section requires the Minister to establish a register of local heritage agreements and agreements to which Division A2 applies and makes related procedural provision.

11—Amendment of section 24—Directions by Minister restricting access to sites, objects or remains

This clause inserts new subsection (2) into section 24 of the principal Act to require the Minister to have regard to specified agreements before giving directions under that section. It also amends subsection (4) of that section to require notice of proposed directions under the section to be given to the relevant Recognised Aboriginal Representative Body.

12—Amendment of section 25—Directions by inspector restricting access to sites, objects or remains

This clause inserts new subsection (1a) into section 25 of the principal Act to require inspectors to have regard to specified agreements before giving directions under that section.

13—Amendment of section 37A—Aboriginal heritage agreements

This clause amends section 37A(5) of the principal Act to require the Minister to consult with the relevant Recognised Aboriginal Representative Body before entering into an Aboriginal heritage agreement under that section.

14—Insertion of section 37E

This clause inserts new section 37E, setting out how applications under the principal Act may be made.

Schedule 1—Transitional provision

1—Delegations under section 6(2) of the *Aboriginal Heritage Act 1988*

This clause makes transitional provisions quashing certain applications and rights to apply that existed under section 6(2) of the principle Act (that subsection being repealed by this measure).

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

Motions

NGARKAT CONSERVATION PARK

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

That this council requests His Excellency the Governor to make a proclamation under section 30(2)(b) of the National Parks and Wildlife Act 1972, to exclude allotments 104 and 105 in Deposited Plan 28853, Hundred of Fisk, from the Ngarkat Conservation Park.

The purpose of the motion is to excise the parcels from the Ngarkat Conservation Park and open them as public road. Under sections 30(2)(b) and 30(3) of the National Parks and Wildlife Act 1972 an alteration to the boundary of the Ngarkat Conservation Park will require resolution of both houses of parliament and a subsequent proclamation by the Governor.

The Ngarkat Conservation Park is located 200 kilometres south-east of Adelaide and is one of four contiguous parks which, at 270,000 hectares, are considered the largest single remnant of native vegetation in the settled agricultural regions of South Australia. Ngarkat Conservation Park has a significant role in the conservation of biological diversity, provides a range of low-key recreational opportunities, and also provides an important overwintering area for the apiary industry.

The private agricultural property Kirra Station is wholly bounded by the Ngarkat Conservation Park. The Tatiara District Council has requested that the Department of Environment, Water and Natural Resources assists with formalising practical access to Kirra Station. This motion addresses the proposed alteration to the boundaries of the Ngarkat Conservation Park to allow for a road opening to create better access to Kirra Station. I am advised that Kirra Station is run by a private company and run as a farming operation, mostly for opportunistic grazing. Kirra Station has not been requested to make any contribution to the costs of effecting this change, I am advised.

The land opening requires 10.85 hectares of land to be excised from the Ngarkat Conservation Park. This land is located centrally in the eastern portion of the Ngarkat Conservation Park and makes up less than 1 per cent of the park's total area, I am advised. The Tatiara District Council, in return, has closed an unmade road reserve and surrendered it to the Crown. It is proposed that the closed road be added to the Ngarkat Conservation Park and that 42.78 hectares be used as an environmental offset and part of the overall realignment of the park boundary.

This excision has been supported by the South Australian Murray-Darling Basin Natural Resources Management Board, the South East Aboriginal Focus Group, the South East Public Lands and Biodiversity Advisory Committee and, of course, the Tatiara District Council, as they requested it. I note that the member for Bragg in another place put some questions on the *Hansard* for me, which I will respond to in writing, and I am grateful for her support for this motion. I commend the motion to council and humbly request its concurrence.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:14): I rise to support the motion moved by the minister in relation to this parcel of land in Ngarkat Conservation Park which will give access to Kirra Station. It is, of course, the road that has been used to go to Kirra for many years. I know that the member for Bragg put some questions on notice. For my own purposes, I would like to know whether the minister has been to Kirra Station or Ngarkat Conservation Park and along that road. As members would know, this is not far from where I used to live, and occasionally, when there was, sadly, a large fire in Ngarkat, our property would be covered in smoke.

Kirra Station was used as a quarantine station for a period of time for the purpose of bringing in new breeds of sheep. I have been looking on the web this morning and I do not think it still has any quarantine station status but, because it was isolated from other farming land and surrounded by national park, it was seen as a good location. Looking at the legend, it is probably only about five kilometres from the Victorian border, I suspect, but there is a large portion of uncleared and undeveloped scrub and vegetation on the Victorian side of the border as well, so it was quite isolated.

It does make sense when you look at the map that has been provided. The old existing road reserve that is to be added to the park is nowhere near Kirra Station and the road reserve that is actually on the alignment of an existing track, the road that has always been used to access Kirra. Anyone who has driven from Bordertown to Pinnaroo would have seen the big black and white sign that said 'Kirra' and I think, for a time when it was an operating quarantine station, it had some quite large signage there to remind people that it was a quarantine station with unauthorised entry, etc.

This is one of those things that just makes sense. It tidies up a little bit of ownership of the land. Tatiara council—which, of course, was my local council—is in full support, and so is the Murray-Darling NRM board, so the opposition has absolutely no qualms at all in supporting this motion.

Motion carried.

Bills

GOVERNMENT HOUSE PRECINCT LAND DEDICATION BILL

Second Reading

Adjourned debate on second reading.

(Continued from 10 February 2016.)

The Hon. R.L. BROKENSHIRE (11:17): This is an important bill. However, there are also some important matters relevant to this bill that I want to put on the public record. I will also foreshadow a question during committee on the legalities around this bill, particularly with respect to the relevant minister—not the minister in this house. I understand minister Hamilton-Smith is the lead minister for this bill and I think there are some very serious questions that the lead minister needs to explain to the parliament.

The general intent of what the government is doing here with the Government House Precinct Land Dedication Bill 2015 is commendable. Many other colleagues in this house would have family who have been involved in war and, whilst we never, ever glorify war, it is important to remember those who paid the ultimate sacrifice and those who suffered for the rest of their lives from going to war and giving us the democratic rights and freedom we so very much cherish and appreciate in our state and nation. My father, as some colleagues would know, was one of those. The government is to be commended on its intent of having this dedicated memorial.

I question whether or not, though, there are a couple of things that are completely out of order. The first is that I am not sure whether it is for the absolute recognition of the centenary of Gallipoli or whether it is politically expedient that this is being rushed and managed the way that it is. I would like minister Hamilton-Smith to get an answer to us on that because this involves changing legal structures and an asset—namely, Government House and the real estate around that asset.

I am sure all members have been along North Terrace over the last few months and seen what started off at the War Memorial in the way of fencing going up and display banners on those fences talking about a project by the state government. If you happen to walk down or drive down the road to the east of that War Memorial, you would have seen trucks and excavators knocking down walls and digging out roads and pathways and so on for months.

I do not believe it is right that a minister or a government can expect to ask this parliament to retrospectively fix legal issues. To me, this issue is very serious because clearly now minister Hamilton-Smith expects us to pass this bill, and I would assume that the bill will be passed. What does it say about a minister of the Crown when the minister of the Crown is prepared to authorise project works to start when I am advised legally that he had no right to authorise this start until such time as proper procedure and due practice occurred in this parliament?

I am talking about exactly what I am here for with my colleagues now and that is to debate this bill. If I am right in what I understand and in discussions with others, we are now in a position where we are retrospectively fixing legislation to accommodate political expediency, and that is wrong. I put on notice for a response in committee: has the minister broken the law? I want an answer. Has minister Hamilton-Smith broken the law?

Ultimately, if it is his responsibility as a minister of the Crown and he has signed off and taken documents into cabinet and, following that, contracts have been approved and work has started without legal issues being addressed beforehand, then that is wrong. If I am wrong, I will take the answer on board and I will simply turn around and say to the house that I was wrong, but I am certainly not wrong in raising the issue. I want a clear and defined, clinical, legal response during committee on whether or not the minister has breached the law.

Having said that, I now come back to the intent of this bill. As I said, the intent of the government generally is to be commended, and Family First will be supporting the intent of the bill. I am advised from an email that I received from a constituent that there is no impact whatsoever on ANZAC Day services and the march because, according to the advice here on this email, 'the chairman of the ANZAC Day Committee confirms that delay of the memorial walk project would have no impact on the ANZAC Day services, march, etc. as the land in question is not used'. The land in question is also part of the current Government House garden. The land in question is not used for ANZAC Day activities and the march is via North Terrace and King William Street.

Anything that we can do to improve the recognition, appreciation and thanks in perpetuity for any man or woman involved in conflict to protect our rights and our privileges I commend. I am sure that this walk is going to be absolutely superb when it is completed. There is one other point that I raise at this point in time, and I would like an answer to this in committee as well. To be fair to the lead minister, it is not his bill. He is just here to carry the bill through the Legislative Council. In an email—and at least one if not more colleagues have tabled petitions on this—there is also an issue being raised about the Dardanelles Memorial in the south Parklands.

There are allegations that that will be moved. I would like some answers on what detailed work has been done if, indeed, that is to be moved. I declare an interest, because my great-uncle (my grandfather's brother) was over there in Gallipoli. There is a memorial in Gallipoli for him and thousands of others and for anyone who has the privilege of going there. I have not been there yet but would like to.

I declare this interest because he was killed in action there, and my grandfather was also, with his brother, in that conflict. He and thousands of others are really represented by the Dardanelles Memorial in the south Parklands. I have had representation and, clearly, we have seen as a chamber significant petitions saying that that should not be moved into this memorial.

I place on notice these questions to the minister: is it going to be moved? Is there going to be proper consultation? Has there been a sign-off? Have relevant family members involved in this been contacted? With those words, we will support the bill, but I look forward to detailed answers on those two specific questions in committee. If they cannot be answered straightaway, then I would suggest that we should not proceed through all of the committee stage until we as a Legislative Council get an opportunity to see the detailed answers on what I believe are two very important questions.

On one of them, it is probably not the first time that things have been tried to be done retrospectively but, in recent years, I have not seen anything pushing for retrospectivity like this on something that was so clear-cut; that is, that you have to address the legislation regarding the boundaries of the real estate, the property, of Government House, through this parliament, before you actually start putting equipment in there to do the work.

Let's respect this parliament. Let's respect Government House and former members of parliament who put legislation in. Let's respect the people of South Australia, and let's see a return to proper democratic processes, due diligence and, particularly, respect for the Westminster system through proper legislative debate and practice, prior to works commencing.

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) (11:27): The second reading contributions being finished, I would like to thank honourable members who have contributed to the debate on this bill. The Hon. Andrew McLachlan posed a number of questions during his second reading contribution that I will address.

The project managers have advised that no significant trees or trees of cultural or historical significance have been removed in the creation of the new space. The advice I have is that the project is allowing Government House the opportunity to remove some of what are referred to as 'common garden variety' trees from the perimeter and upgrade some of the once unseen garden area to more appropriate vegetation that enhances more of the open style of fencing.

In relation to some of the questions posed by the Hon. Robert Brokenshire, I appreciate that he is putting his views forward and wanting answers. I wonder if he posed these questions when he was offered briefings on this matter or if this is the first time he is raising these questions. However, with the questions being raised, I can respond to the Hon. Robert Brokenshire that I have been advised that the advice that has been given is that the work was started appropriately.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: I ask the minister, further to the brief oral response that he gave the chamber in summing up, has he, or on behalf of the minister responsible, documentation through crown law that confirms that it was legal and fine to proceed in November 2015 in knocking down walls and taking over land from Government House?

The Hon. K.J. MAHER: I am advised that this bill is not a precursor to the construction of the wall; that is, this bill is not needed for the wall to be constructed. The wall can be constructed without this bill passing. This just realigns the boundary of Government House.

The Hon. R.L. BROKENSHIRE: Is any land, even a square centimetre of the land that will be involved in this dedication memorial walk as part of an urban development project, relevant to Government House and the Government House real estate precinct?

The Hon. K.J. MAHER: It is the same answer that was given before, that the advice is that this bill is not a precursor to construction; that is, the building of this wall does not hinge on the passing of this bill, the realignment of the boundary does.

The Hon. S.G. WADE: I was trying to follow the same line of questioning as the Hon. Mr Brokenshire. I was somewhat irritated by the minister's criticism of the Hon. Mr Brokenshire suggesting that he should not raise an issue in the second reading if he had not raised it in briefings. I think this parliament is an open, transparent organ, and parliamentarians have no obligation—

The Hon. K.J. Maher interjecting:

The Hon. S.G. WADE: Excuse me, I'm sorry, on clause 1, I am allowed to make comments and questions, am I not, Mr Acting Chair?

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Mr Wade has the call and the minister will remain silent.

The Hon. K.J. Maher interjecting:

The Hon. S.G. WADE: And if the minister wants to heckle me perhaps he could do it through the Chair. I just reiterate the point—

The Hon. K.J. Maher interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Mr Wade has the call.

The Hon. S.G. WADE: I understand I am in order.

The Hon. G.E. Gago interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): And the Hon. Gail Gago is out of order. The Hon. Mr Wade has the call and should proceed.

The Hon. S.G. WADE: The Hon. Mr Brokenshire has every right to raise questions in this parliament, but for the interest of the minister I raised this very issue in a briefing, and I was told whether the parliament passed this bill or not the government was proceeding with the construction. The reason I raised it was that the construction had already started before I received my briefing.

The minister can use weasel words about how the wall can be constructed without the tender being clarified. Obviously it can: a wall can be constructed on somebody else's land. The fact of the matter is that this wall is within the precincts of Government House, and this parliament is now being asked to realign the precinct of Government House. I would have thought that it would be respectful to the Governor, and it would be respectful to this parliament, to do things in an orderly fashion and to have considered this bill before construction was commenced.

The Hon. K.J. MAHER: I thank the honourable member for his contribution. That is not what I was suggesting to the Hon. Rob Brokenshire, and I appreciate that you have raised questions through receiving briefings on the matter and I think that is a good and appropriate thing to do. It may be the case that the Hon. Robert Brokenshire only thought of this after he had received a briefing; that is always possible, but in my experience it is easier to agitate these things when you might have the responsible minister and a suite of advisers for it.

I can repeat what I have said, that the advice is that this bill is not a precursor to construction. This bill is about the realignment of the boundary. The advice is that the wall can be constructed. This bill is about the realignment of the boundary.

The Hon. A.L. McLACHLAN: Perhaps I will ask the question slightly differently from the Hon. Robert Brokenshire. Can the minister assure the chamber that no illegal act has been done, that there has been no breach of any law, in commencing the construction ahead of the passing of this bill and its ultimate proclamation?

The Hon. K.J. MAHER: I can give you the answer that I have given, that the bill is not a precursor to construction. I am not going to stand here and attest for everything everybody has done on every part of it under every sort of potential state and commonwealth law to relate to anything in the world. I am not going to give that guarantee, and I bet you that the Hon. Andrew McLachlan would not give that guarantee about any work that he was not directly responsible for anywhere either.

The Hon. A.L. McLACHLAN: We will just have to wait and see if the Liberal Party wins government. I suppose the concern that the Hon. Robert Brokenshire is raising is whether any contractor, project manager or worker is at risk of criminal or civil liability as a result of commencing the work earlier. I put that question to the minister. The boundaries will be realigned by the passing of this bill and its ultimate proclamation. Has the governing act that this seeks to amend, which sets out the parameters of Government House, been breached by the works commencing early?

The Hon. K.J. MAHER: The advice I have is that the answer is no.

The Hon. S.G. WADE: Is the advice the advice of parliamentary counsel or the advice of crown law?

The Hon. K.J. MAHER: The advice I am receiving is from the parliamentary officers who are advising me.

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Mr Brokenshire.

The Hon. R.L. BROKENSHIRE: I am sorry. Yes, I do. I may have several. I may even foreshadow that if we cannot get some proper answers on this, I may consider reporting progress, because this is important. It is not flippant, and as I said to a minister recently, who said, 'Here comes

a troublemaker,' because I happened to be raising some issues on another piece of legislation, 'Minister, I am not a troublemaker, but I am here to raise issues on behalf of constituents, because if constituents can't have issues raised in this house, the whole state's an absolute mess when it comes to legal and parliamentary structure.'

I said to the minister, 'Minister, you may be in government, you may be a minister of the Crown and you may have been in a very long time, but you don't own the parliament.' The one thing the government cannot ever do is own the parliament. Therefore, I am not interested in an adviser's verbal response on this, because what we are doing here, unless I have got it wrong, is actually now retrospectively passing a piece of legislation that allows the shifting of a boundary from memorial walk, that takes land from the precinct boundaries of all the real estate around Government House, certainly on two sides, certainly on the eastern side, and certainly on the northern side.

There is a clear act that defines the boundaries of government house. Yes, you can go and knock down a wall, minister: I agree with you on that. You can go to your neighbour's place and knock down a wall, but even then you are in breach of the Fences Act if you have not given proper notification and protocol and processes have not occurred. I am simply asking whether there is a legal opinion that the government received that says that they can go and start works, call tenders, and knock down brick historic walls that have been there since I think Government House was built. Did you get a legal opinion? If you did not get a legal opinion, how inept are you or how arrogant are you? I am simply asking for a question to be answered.

The Hon. K.J. MAHER: I have given a response; it is the same question that was asked already.

The CHAIR: So you are not going to respond?

The Hon. K.J. MAHER: I can once again inform the honourable member that the advice is that the bill is not a precursor to the construction of the wall. We are not doing something to allow the wall to be built—that can be done. What we are doing is adjusting the boundary.

The Hon. R.L. BROKENSHIRE: I asked a hypothetical here, an important one, of the minister. If this chamber, based on that answer, was not to pass this legislation, what would the legal situation be then on the wall that has been knocked down and other work that has commenced on a piece of land that legally belongs to Government House?

The Hon. K.J. Maher: I will not repeat what I said before. I am happy to take it on notice and come back with an answer. I urge you to consider the bill as it is and pass it today, but I can come back with those answers for you. I am happy to come across.

The CHAIR: If the minister wants to add to the answer he needs to stand up.

The Hon. S.G. WADE: On behalf of the Hon. Rob Brokenshire, I thank the minister for his willingness to come back with the information for the house. Could I suggest a couple of questions on which he might come back with advice in the same context? Was the wall that was demolished a registered heritage asset under any state heritage legislation, and were relative approvals received before it was demolished?

Secondly, is it the intention of the government that the walk would be in the care and control of the council? That being the case, wouldn't the Hon. Mr Brokenshire's concerns be particularly valid, because if the parliament was not to change the boundary of Government House, you would have a portion of land outside the Government House wall that would still be under the care and control of the Governor, and another piece of land contiguous to it under the care and control of the council?

The Hon. K.J. MAHER: I thank the honourable member for his questions. I can certainly answer the first one for him now. In terms of the heritage status of the wall, I am advised that, no, it did not have any heritage listing. In terms of the second question, similar to what the Hon. Rob Brokenshire asked, I cannot give you all the details now. I am more than happy to take it on notice and give an undertaking to bring back any answers I can. I would encourage members to pass the bill today.

The Hon. T.A. FRANKS: Arising from this clause 1 discussion, it has been posited that the wall has been there for some period of time. When I first moved to South Australia in the 1980s I remember that there was a wall along the King William Street end—

The Hon. S.G. Wade: The North Terrace side—oh, the western side?

The Hon. T.A. FRANKS: I know what I am about to say—the King William Street side, where there is now the ability to view Government House. If you look out from Parliament House, standing looking across the road, you can now see through because there is now a fence that enables you to view Government House. That was due to a governor at the time, and I do not know if it was Dame Roma, but my memory is telling me that it was Dame Roma who said, 'I want to open Government House to the people.'

When I first moved here I found that it was a large wall with broken glass on the top, a very old stone wall and very forbidding. In fact, I remember that being done as a way of opening up Government House to the people. What were the provisions around opening it up and taking down that particular wall?

The Hon. K.J. MAHER: I thank the honourable member, but I do not have the details about the provisions of the opening up and the taking down of the wall. One thing I can add that I think is useful is that that is what this new wall will do: in part it will be opening up Government House, as has been mentioned before, and I think that is a very good thing.

The Hon. A.L. McLACHLAN: To further assist the minister on this issue, and listening to the Hon. Robert Brokenshire's questions, in effect the question he is raising is: if it is not (using the minister's words) a precursor to the work starting then, in essence, you could build a large wall around the immediate surrounds of Government House and leave the rest as a park without any other legislative intervention.

It is arguable that the works commencing is a positive act by the state to take the land from Government House and thus breach the law and assume control of Government House land without legislative authority—which is why we have this bill before the chamber. These are important questions and I would be supporting any motion by the Hon. Robert Brokenshire to report progress and for those answers to come back to the chamber, so I will leave that with the Hon. Mr Brokenshire for the moment.

The Hon. K.J. MAHER: I thank the honourable member for his questions. I think I understand the question he is asking. As I said, the advice I have is that it was not a precursor to construction. I am very happy, as I have indicated to the Hon. Robert Brokenshire and the Hon. Stephen Wade, to bring back any answers that I can in relation to the very specifics of those questions. I just do not have the information available in front me, but still I would urge this chamber today to pass the bill.

The Hon. R.L. BROKENSHIRE: I respect what the minister is saying, but I put to the chamber that there is a matter of a very important principle here. This place is not for rubber-stamping simply what government has started to do, for whatever reason, and then bringing in legislation. In my 21 years here that is not how I have understood the parliament to work.

There must have been some legal assessment on this because there are a lot of issues around this, including who is responsible for any potential litigation at the moment if sadly and tragically something happens while the works are occurring, and there is a transitional situation on land boundaries that are under Government House/state government ownership and the Adelaide City Council—just as one example. I would move that we report progress and wait for some answers to be brought back because this is serious.

The Hon. T.A. FRANKS: I did have a question at clause 1.

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Ms Franks, just one moment. Have you actually moved that we report progress because, if you have, then that cuts the Hon. Ms Franks out?

The Hon. T.A. FRANKS: That's right.

The Hon. R.L. BROKENSHIRE: I have foreshadowed that, and I understand that my colleague wants to ask a question.

The Hon. T.A. FRANKS: I rise to both put a position and ask a question. A position has been put here that perhaps illegal activities have occurred. I am hearing from government that they in no way have occurred to its knowledge and that we should proceed with this bill. I am also cognisant that in both the other place and here all members support this piece of legislation.

While there are concerns raised—and this is where my question is—that at the moment we are leaving people potentially liable to litigation by the fact that we have not passed this bill, will not passing this bill today leave, in that case should that be the situation, further people open to litigation?

If we do not pass a bill today that we say is exposing people to some sort of potential for liability, are we not increasing the liability, if that were to be the situation? I know it is being put as a possibility (and at this point I am not accepting that that is proven), but by not passing the bill today, that all those who have spoken to have supported, would that not increase and further the risk?

The Hon. K.J. MAHER: Hypothetically that is possible. I understand that we all support the intent of this bill—I do not think anyone is denying that—and I encourage members, if they support the intent of the bill, to get it passed today, and I give an undertaking that I will bring back the answers to what I acknowledge are important questions.

The Hon. A.L. McLACHLAN: The minister just argued against himself. Earlier in the committee he said—

The Hon. K.J. Maher: I said hypothetically.

The Hon. A.L. McLACHLAN: I look for your protection, Mr Acting Chair, from the minister's interjections. If the bill is not a precursor to the works, then there is no risk in us reporting progress. If there is a risk, then the questions that have been raised and the line of questioning initiated by the Hon. Robert Brokenshire are justified. So the minister needs to clarify whether there is a risk or not. If there is a risk then we should continue with the committee stage perhaps later today.

I do add that the Liberal Party was very keen to address this bill ahead of Christmas but there were other priorities dictated to us by the government, and any reference to *Hansard* and the Hon. David Ridgway's protestations immediately prior to the Christmas break will inform them. The minister has to clarify, given his statement to the chamber, that if it is not a precursor then there should not be any obstruction—to follow the line of questioning from the Hon. Tammy Franks—for us to report progress and have the answers delivered in the committee stage.

The Hon. T.A. FRANKS: In responding to the interpretation of my question, my argument is actually that the Hon. Robert Brokenshire is the one who is arguing against his own logic. He is the one presenting the false logic, because if there is a risk he should be urging us to pass this bill today to alleviate and eliminate that risk. He is the one saying that there is a risk. I have not heard any evidence that there is, and certainly the Greens' position has been the same as the opposition and the government and other members who have spoken to this bill in supporting its passage.

The Hon. K.J. MAHER: To hopefully help the debate, and not confuse it, my advice is that there is no liability, but I think the Hon. Tammy Franks makes a very good point. My advice is that there is no liability but, if it is the case that there is some, as the Hon. Robert Brokenshire is concerned, then I think the Hon. Tammy Franks is absolutely correct in that continuing to delay the bill could cause problems with that. However, that is hypothetical because my advice is that there is none.

The Hon. R.L. BROKENSHIRE: Just further on the point, that was a secondary point to the key principle I was raising. The key principle I was raising was: are we being asked to now pass this? Of course we all want this; we all want it, and there is no doubt about that. However, what you want also involves proper process and proper consideration of that process within the parliament. As I read it, this is effectively asking us to retrospectively confirm a situation in here so that the government can get on with work it has already started before it got confirmation from the parliament that the parliament agreed to change the law.

That is the simple issue we are debating here. That is my primary concern. As one legislator—and I know that I am one out of 22—I believe, fundamentally, that we need to scrutinise this. If this becomes more of a normal practice into the future, that there is a breach of process and ministers think they can just sign off on things because it is politically expedient for them and they expect this parliament to come back and ratify it, I believe that would be a disaster.

Simply all I am asking, to make it clear, is: what documentation was done? Surely there must have been some documentation between minister Hamilton-Smith's office and all the government agencies and the council involved in this; there must have been some legal opinion that you could go and start these works and then get ratification from the parliament.

If the documentation is there that says it is fine to do that, I, personally, as one of 22, am happy to proceed later today on this, because I do not want to hold it up. But I believe, as a matter of principle, that if we just allow this stuff to come in, ebb and flow whenever the government wants it to, without proper process, we are heading down a very bad path for future legislative procedure in this state. I am absolutely adamant that we must be sure that we are doing things properly. We cannot just allow any government to blaze away without respect for the procedure of parliament.

The Hon. K.J. MAHER: I thank the honourable member for his passionate contribution. The advice is that Government House is crown land, there is a wall being built on crown land and the wall will continue whether we pass this bill or not. This bill merely seeks to realign the boundary.

The Hon. R.L. BROKENSHIRE: Then, if you are proceeding with realigning, building a new wall and changing structures around Government House for the wall and you say you are proceeding whether or not this legislation is passed, are you telling us that you are prepared to defy the law as it stands at the moment and just proceed with the project?

The Hon. K.J. MAHER: My advice is there is no law that is being broken. This is realigning the boundary. This is not the wall being built. Whilst I appreciate the tenacity of the line of questioning, it has me at a loss as to exactly what the honourable member means.

The Hon. R.L. BROKENSHIRE: When you realign a boundary, unless you actually happen to own contiguous land, you are realigning a boundary with different owners, are you not? And, surely, you have to have proper process in changing that. You would have to do a land transfer and you would have to have a conveyancer involved. You would have to go through proper legal processes as a private citizen if you are going to realign boundaries. Are you not doing that now?

The Hon. K.J. MAHER: My advice is that Government House is crown land and the contiguous boundary is council-owned land. Both parties agree. They are joint funders for the project. The wall is being built. This merely realigns a boundary.

The Hon. A.L. McLACHLAN: To add to the Hon. Robert Brokenshire's point, a reading of the bill that governs Government House is, in effect, creating a trust, because it is for all time. Therefore, whilst everyone might agree with the movement of the boundary, there is consideration about the proper process of breaching that trust, in effect, and the community settling on a new boundary and the purposes for which that land is going to be used. So, there is a process there. I am not arguing against the minister: I am just saying that is one of the concerns.

From the Liberal Party's perspective, whilst we do not have a problem with the terms of this bill, one of our colleagues has raised a series of questions that he wishes to have answered so that he, in good conscience, can vote in committee, if I understand the Hon. Robert Brokenshire correctly. The Hon. Tammy Franks has raised the question that, because we all agree and there might be a scintilla of risk, as indicated by the minister, we should just proceed.

The Liberal Party is more than willing to hear from the minister later today if we report progress and then bring this back on, because the committee stage is the only chance members of the Legislative Council have to interact with the terms of this bill and debate it. Whilst I appreciate the minister has undertaken to bring back answers, if the answers are unacceptable, it cuts out the ability of the Legislative Council to further tease out the responses. If the Hon. Mr Brokenshire is minded to move to report progress, the Liberal Party will support that motion, but we would also be willing to bring it on at any time during the day and complete the legislative process subject to the responses that are received.

The Hon. K.J. MAHER: I thank the member, and I think the first part of your answer hit the nail on the head and clarified it: this is about the moving of a boundary. I know we can bring in other issues and it is great fun for esoteric legal debate to take its course in the Legislative Council, and I know that is part of what we all do here, but you are absolutely right: this is about moving a boundary. That is what we are doing today, so we do not support the reporting of progress. I am happy to bring back some of those answers but this is about the movement of a boundary, not the building of the wall on both sides of the boundary everyone agrees on. I would encourage and ask members to pass this now as we are discussing it.

The Hon. R.L. BROKENSHIRE: Again, I argue that there is a matter of principle here and, whilst I have a lot of time for this minister, the Leader of Government Business in this house, it is a big ask in my opinion to say to the parliament, the Legislative Council, 'Just go ahead and pass the bill and we will have a look around later on today or next week or next month and find any information on what assessments we did with respect to starting the work, calling the tender and all that before retrospectively confirming in the parliament boundary changes.'

The material is either there or it is not there. If it is not there, then it is up to the Legislative Council to make a decision on whether they continue with it. I am really interested to know whether the work was done with due diligence, whether there is some material there. If it is, it will be very easy for the department to dig it up and we can work on it this afternoon and we can go our merry way with it being approved if that is the desire of the chamber. If there is work being done on that, why can this chamber not see that work to feel confident? I believe we should have challenged this because I believe this is bad process. I move:

That progress be reported.

Let's report progress until later today and see what they can find in the next couple of hours.

The committee divided on the motion:

Ayes 10
Noes..... 7
Majority..... 3

AYES

Brokenshire, R.L. (teller)	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E.	Lee, J.S.	McLachlan, A.L.
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES

Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Kandelaars, G.A.	Maher, K.J. (teller)	Malinauskas, P.
Parnell, M.C.		

PAIRS

Lensink, J.M.A.	Ngo, T.T.	Lucas, R.I.
Hunter, I.K.		

Progress thus reported; committee to sit again.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Committee Stage

In committee.

(Continued from 24 February 2016.)

Clause 102.

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

Amendment No 74 [Parnell–1]—

Page 82, after line 15—Insert:

(2a) If the Minister proposes to make a declaration under subsection (1)(c) is respect of a development that will, if the development proceeds, be situated wholly or partly within the area of a council, the Minister must consult with the council before making the declaration.

Just to remind people, we are now looking at the development assessment pathway, known as impact assessed development, and clause 102 is the clause that determines how things fall within that pathway. There are three pathways by which a development application can be judged as being impact assessed development:

(a) it is classified by the Planning and Design Code as *restricted development*; or

(b) it is classified by the regulations as *impact assessed development*; or

(c) it is declared by the Minister as being *impact assessed development*.

The bit I want to focus on is where the minister declares something to be impact assessed development. My amendment proposes that, if the minister wants to make that declaration, and if the development is within the area of a council, then the minister must consult with the council before making the declaration.

This is a fairly straightforward amendment that was requested by the LGA. It simply says that the minister should do us the courtesy of telling us, or consulting with us, before making a declaration. It does not affect the other pathways for developments to fall within the category of impact assessed development. It only affects that pathway which is a ministerial declaration, and it simply obliges the minister to consult the local council, if any.

The Hon. K.J. MAHER: I thank the honourable member for his contribution on his amendment. The government opposes this amendment, however. The provision as drafted reflects the existing law in relation to major developments and projects. The Hon. Mark Parnell's amendment would impose a new requirement to consult council prior to a declaration being made by the minister, creating more red tape and delay to significant projects that have the possibility of creating jobs and economic development for this state.

It is our view that it is completely unnecessary, given that the entire process that flows from such a ministerial declaration is about consulting. Effectively, this is consultation about consultation, which is madness gone mad and just completely unnecessary red tape, in our view. Under the bill as it is currently drafted without the amendment, an affected council and affected communities must be consulted during the assessment process for impact assessed development. The government considers that this is the appropriate point in the process where both the community and the council have access to all necessary information relating to the proposed development, and it can make meaningful and informed comments without needlessly blowing out time frames.

The Hon. M.C. PARNELL: The reason I made such a brief and succinct contribution is that I had thought this fell into the category of no-brainer and that the government might be on side. Clearly, I need to give an example of why a measure like this is important. The best example to my mind involves a proposed development across the road from the Adelaide Showgrounds. This was a development on Goodwood Road. The developer had been consulting with the council, talking about various options and whatever, and then they went to the minister, and the minister declared a major project.

I can still remember that morning's radio when they had the mayor on the radio. I do not know whether it was Mayor Lachlan Clyne or a previous mayor, I think it was a previous mayor. On radio, they asked the mayor, 'What do you think about the declaration in your council area of this major project on Goodwood Road?' And the response of the mayor was, 'First time I've heard of it. We've been talking to these people and they've gone behind our back, they've gone straight to the minister, and without consulting us the minister has gone and declared it a major project.'

The view that I took at the time—and I think many listeners would have thought it—is that that is pretty damned disrespectful. Surely, if the minister is going to go down that path he should have at least consulted with the council and said, 'Look, the developers aren't happy with the progress they're making with you guys. I'm going to call it in as a major project and I'll deal with it.' None of that communication occurred. I disagree with the minister's assessment that this is consultation on consultation.

Sure, once it has been declared, it has been called in, yes, then they are going to talk to the council about it; but I would have thought that the threshold question should be: is that call-in even necessary? For the minister to get all of the information to help him or herself decide whether the call-in is necessary, surely they should talk to the local council. It just struck me that this was one of the simpler amendments. It is not born out of some wild imagining; it is born out of a real-life case.

I recall that I think I might have even tried in a previous set of amendments to the Development Act to include a provision such as this. It makes logical sense. The minister must consult with the council before making the declaration. It does not say the minister has to follow the council's advice. The minister just needs to not take them by surprise and have the council find out on the morning news that an important development in their area has been declared—we do not use the words 'major project' anymore, we are going to be calling it impact assessed development.

The Hon. D.W. RIDGWAY: Given the government is opposing this amendment, can the minister explain how practically it would work? If you have a development that the developer is concerned is not progressing as well as they would like, what is the trigger point for the minister to call it in? Obviously, in the current circumstances you do not advise the council; they find out, I assume, probably through a better channel than the morning news, but nonetheless they are not consulted. That is what the Hon. Mark Parnell is trying to overcome. Can you just explain how you would see it working if we look at the current provision?

The Hon. M.C. PARNELL: I might just take the opportunity to refer the Hon. David Ridgway to my amendment No. 75, because his question, effectively, of the minister is: when the minister is going to make one of these declarations, what ought the minister to take into account? At present the answer is: whatever they want. I think that that is probably—

The Hon. D.W. Ridgway: I want hear that from him.

The Hon. M.C. PARNELL: You will hear it from him, but I will tell you my version of events. At present, the minister can take whatever he or she wants into account. What I am suggesting in a subsequent amendment, which we will get to, my amendment No. 75, is that the minister must, in acting under subsection (1)(c), 'take into account principles prescribed by the regulations'. In other words, there should at least be a list of things that the minister has to take into account, some guidance, because otherwise it is completely arbitrary.

I think that if we are going to effectively call in developments, take them away from the local council, then it should at least be based on some logic, some reason, and setting those out in the regulations I think makes sense. Otherwise, it falls into the category of unfettered ministerial discretion. The minister does whatever the minister wants, and I just do not think that that is appropriate in this legislation.

The Hon. K.J. MAHER: I thank the Hon. Mark Parnell for his help and his views of how this works. I can respond to the Hon. David Ridgway's previous questions and contributions. In terms of calling in, practically how it works is it is at the discretion of the minister. The minister must be satisfied it is of significant benefit, but there are plenty of hoops to jump through, with plenty of consultation to remain. The whole consultation process starts again once it is called in. Clause 103, with practice directions, and clause 107, the EIS process, will mean that a lot of hoops are jumped through once it has been called in, and in reality I think it is the case that this power will likely be used sparingly.

The Hon. M.C. PARNELL: I do not want the minister to get away with unintentionally getting something wrong. He refers to the practice direction under clause 103, which we are about to get to. My quick rereading of that section is that the minister is not bound by it; it is only the commission that has to take into account the principles.

The Hon. K.J. MAHER: Once it is called in.

The Hon. M.C. PARNELL: Yes. The minister has consistently said that, once it has been called in, then all these other things sort of happen. My point is that the minister should not take that threshold question of unilaterally taking a development and calling it in without at least being guided by some principles. My point is to put those principles in regulation. If we want to get even more esoteric, in other jurisdictions they do not have this ministerial discretion. What they do is, they say, 'Here's a list of the types of developments that you're allowed to call in, effectively, as major projects: oil refineries, chemical works'—they would list them all.

We have gone the other way and we have given the minister complete control, which means that something like a block of flats on Hindmarsh Square gets called in as a major development, but a $2 billion pulp mill at Penola does not cut it. Go figure!

I think that there will be a level of ministerial discretion, but the amendment we are actually considering now is whether they should at least consult the council before exercising it, and later we will get to whether there should be prescribed guidelines. They are not consequential.

The Hon. K.J. MAHER: I can advise the honourable member that we are straying on to a couple of issues in talking about this. We will get there, so it is worth agitating now. We are not opposed to there being principles or guidelines about the calling in: what we are opposed to is the specific amendment No. 74 [Parnell-1], requiring that what we say is consultation or conversation with the council before the process starts. We are not opposed to what you have outlined now, arguing for something that will come later. We are not opposed to the guidelines or principles being regulated or written in relation to some of the things you have talked about in your last contribution, but we are opposed to this particular amendment.

The Hon. D.W. RIDGWAY: I come back to the question I asked first, that is, the trigger. How does the minister become aware that a project or development needs to be called in? You have talked about all the things that happen once it is called in, and I think we are all familiar with that, but how does the minister become aware? What is the trigger? Does the developer knock on the door and say, 'Hey, I can't get my development up. Council X is a pain in the neck and I need it to be called in'? I am interested to know the pathway for a project to get to the minister's desk for him or her to call it in.

The Hon. K.J. MAHER: I thank the honourable member for his question. It is the same as happens now. If it is a project that the minister may consider of significance, if it is brought to the minister's attention, then it is up to him to be satisfied that it is of significance. The process to get to the minister is effectively how it occurs now. As it happens now, often the course is that a proponent has tried with the council, been frustrated and then we will see if there is an avenue for it to be called in, the minister being satisfied that it is of significant benefit, then that whole consultation process, once it is called in, beginning. So, it is not a departure.

The Hon. D.W. RIDGWAY: I have a question of the mover. His amendment is that the minister must consult with the council before making a declaration. Could that be as simple as the minister going on radio as 9 o'clock and, at 8.30 in the morning ringing the mayor and saying, 'By the way, I'm calling it in—just thought I'd let you know before I go on radio,' and hanging up? He has satisfied the consultation and let them know; it is not a surprise and they know it has happened.

The Hon. M.C. PARNELL: I thank the honourable member for his question. I would be surprised if that were regarded as a sufficient consultation because it is a notification rather than a consultation. What I have in mind, the way I see this working, is that the minister would contact the local council and say, 'Look, this developer that you have been talking to about the development, they have come to me and they think you are being a bit slow or you're not being sympathetic enough, or the council is thinking it should be five storeys, the developer really wants 10; have you got any room to move?' If the council says, 'No, no, no, we're adamant it mustn't be 10, it must be five,' and the minister thinks that 10 is a really good idea, then the minister will say, 'Well, thanks for considering it, but I'm going to call it in now and we'll be dealing with it under this stream.' That is the sort of thing I imagine with consultation.

It in no way prevents the minister from exercising the power. It does not prescribe that it has to give the council two weeks' notice. You asked whether half an hour would be enough. I would have thought that that is probably pushing it. We are not talking weeks; we are probably talking days,

maybe it is a day—I do not know, I have not been prescriptive. I have just said that the minister must consult with the council before making the declaration. I point out that this was something the Local Government Association, which had a whole suite of measures where they thought they should be consulted at various stages in different parts of the process, and this was one of those.

The Hon. K.J. MAHER: I think it was a good question asked, and I agree with the Hon. Mr Parnell that a telephone call just before going on radio would probably be seen as a notification rather than any sort of consultation. But it does raise a very good point, in that if this amendment is passed it gives another possible avenue to hold up a project and to agitate with litigation.

The requirement to consult could very easily be something that is taken to court to ask for a ruling on whether the consultation was adequate. I agree that a telephone call before a radio interview almost certainly I do not think any court would deem that as adequate consultation—but then it gives rise to all sorts of shades above that. It might be very good for planning lawyers to have another avenue to try to stop a development, but I think that illustrates very neatly that this extra level of consultation could be a very big impediment and add a very significant layer of red tape when, after it is called in, there is a whole lot of consultation. It gives another avenue. It gives potential court action about what constitutes consultation that we think is completely unnecessary, given the consultation that occurs once it is called in.

The Hon. D.G.E. HOOD: It will probably surprise nobody to hear that we will not be supporting the amendment. The reason is that I think the minister has put it well—that is, it does open yet a further avenue for additional consultation. I do not think anyone has said this yet, but it certainly adds time to the process and time is money. That is the reality: it adds cost because most of the money used to build these developments, particularly larger-scale developments, is borrowed money. Every day that that money is not earning anything it is costing somebody money. At the end of the day, that simply adds cost to the development overall, and that is something that we would not like to see happen.

I should say the reason we have got to this point. I think the Hon. Mr Parnell is right: it is not ideal that the mayor of a council finds out on radio that a major development has been called in his particular council area and he had no prior knowledge of it. That is not ideal and it should not be that way. However, the reason we are at that point is that some of these councils make it so hard that the developers throw their hands in the air and think, 'Well, we've got to get something done,' and that is why they tend to seek other avenues and that is why we cannot support the amendment.

The Hon. D.W. RIDGWAY: I am interested in exploring this a little further. I wonder about the circumstances where a council is notified that the minister is thinking about calling it in and they say, 'We better actually hurry up and approve this development,' because they feel threatened by the fact that the minister might call it in. I know that when it is called in there is a whole range of hoops to jump through, and I wonder whether this might not force councils to approve developments so that it happens more quickly, rather than going through the call-in process. I do not know whether the minister or the mover has any views on that.

The Hon. M.C. PARNELL: I think that is actually on the money a little bit. A weapon in the holster of developers is that they have always been able to say to a council, 'Look, if you drag your feet or if you are not sympathetic enough, you know that we can always go to the minister, and the minister will call it in, and we think we're going to get a better hearing out of the minister.' Chances are they are probably doing that anyway. A lot of ministers have said, quite reasonably, 'No, the sort of development you're talking about, the scale of it, stick with the local council. If it becomes impossible, come and see me again but, no, work through the process properly.'

My feeling would be that the ability of the minister to call something in does impose a discipline on councils because, whilst I have not explored this fully, they would probably not get the application fees once it was called in, unless they have already paid them. I am not sure if they are refunded the development application fee. Certainly, it would be a discipline on the councils, that they would know that if they behaved unreasonably and tried to impose unreasonable restrictions on the development and did not stick within the planning rules, the whole thing might be taken off them. I think that is a discipline that is going to have them acting more quickly and more efficiently.

It does not mean that the notification system is invalid. I think the whole nature of ministerial call-in means that they know that someone is looking over their shoulder and that they might lose control of this development if they do not treat it appropriately.

The Hon. K.J. MAHER: I do not know if the honourable member would be open to considering amending it and having the word 'notification' rather than 'consultation', as he moves it. He may gain some widespread support for that.

The Hon. M.C. PARNELL: I am reluctant to make the amendment unless it is the only thing we are going to get through, so I would be interested to hear from the Hon. David Ridgway whether he believes that the words as they are at present, 'must consult', are acceptable. If they are I will stick with that but if the Hon. David Ridgway says that no, he is happy with just notification, then it would be to replace the words 'must consult' with the words 'must notify'. However, I will take some guidance.

The Hon. D.W. RIDGWAY: This is one of the clauses our party room has given me instructions to explore and get some clarification on as to what it really means. I am reluctant to support the consultation amendment that the Hon. Mark Parnell is talking about, and I can sense that the government is happy with notification. I could say that we will support the Hon. Mark Parnell but then we will come back and have another look at it and recommit, because we are not 100 per cent certain, but if the government is happy with notification then the opposition would be happy with notification.

In the end, whether that is in a period of time, that they have to give 14 days' notice that they are going to call it in, or you hold the gun at the head of the council a little closer perhaps, I do not know. Certainly from the opposition point of view, we would support the amendment if the word 'consult' was replaced with the word 'notify'.

The Hon. M.C. PARNELL: In the interests of progressing the debate, I seek leave to move my amendment in an amended form, that is, that the word 'consult' be replaced with the word 'notify'.

Leave granted.

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

Amendment No 74 [Parnell–1]—

Page 82, after line 15—Insert:

(2a) If the minister proposes to make a declaration under subsection (1)(c) in respect of a development that will, if the development proceeds, be situated wholly or partly within the area of a council, the minister must notify the council before making the declaration.

There were actually two words that needed to be removed, the words 'consult with' replaced with the word 'notify'.

Amendment as amended carried.

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

Amendment No 1 [Parnell–3]—

Page 82, after line 18—Insert:

(3a) A regulation under subsection (1)(b) or a declaration under subsection (1)(c) cannot apply with respect to a development or project within the Adelaide Park Lands (within the meaning of the Adelaide Park Lands Act 2005).

It is a shame, in a way, that this amendment is interposed between my amendments Nos 74 and 75, given that we have managed to negotiate 74 and that the government is agreeing with 75. However this is a different issue entirely, so we need to get our heads out of that space and into a new space.

Members would have received a letter last year—in about October, I think—and very likely received another letter yesterday from the Lord Mayor of the City of Adelaide, addressed to the planning minister. I am fairly sure that most members were copied into it, but basically what that letter says is that there is a couple of issues remaining that concern the Adelaide City Council. One of them is heritage, which we are going to revisit later on so I do not need to go there now, but they were also

concerned that some of the historic protections built into the Adelaide Park Lands Act 2005 are missing from this bill.

I have drafted my amendment set 3, and the whole of that set relates to this one issue. The question is whether the government should be able to declare, if you like, major projects or whether it should be able to declare public works or public infrastructure projects over the Parklands and thereby bypass the normal pathway for development assessment.

Parliamentary counsel has taken the existing provisions of the Adelaide Park Lands Act, which basically prohibit the government using major project status or Crown development status, from using that in the Parklands. When I say 'Parklands', I am actually referring to the grassy Parklands. Clearly, there are areas that are already developed. In the previous bill today we were talking about Government House, and we have Parliament House here and we have got right through to the new Royal Adelaide Hospital and, if we go in the other direction, the old Royal Adelaide Hospital. My amendments do not relate to those parts that have already been built on. The part of the Parklands I am talking about is the undeveloped part.

Back in 2005, this parliament agreed that the Parklands were so important that they did not want the government using special fast-track methods and they did not want the minister to be the final decision-maker over developments in the Parklands. They wanted development applications to go through the normal process. At present, that would normally be the Development Assessment Commission.

I have taken those protections and incorporated them into the new bill. The protection now occurs in three locations because the bill is reconfigured. We no longer just have major projects and Crown development: we now have infrastructure as well. This amendment occurs in three places in the bill and, basically, it says the government cannot use these pathways which have the minister as the final decision-maker.

As an example—people like examples—the Hon. Kevin Foley, members might recall, was very keen to build a permanent grandstand in the middle of Victoria Park, and that created quite a lot of opposition. I know some members here liked the idea and many others did not, but the way the law is it could not get through. The minister was not able to unilaterally decide that they were going to do it. It had to go through the normal development assessment process.

The question before us is: are people happy to have the minister able to decide, effectively, any type of development in the Parklands by declaring it to be a major project (or, in the new language, an impact assessed development), declaring it to be a Crown development or declaring it to be an infrastructure development? Should the minister be able to impose what he or she wants on the Parklands? I have to say my answer to that is no. The reason we have Parklands is because of the eternal vigilance of generations of South Australians who have consistently said, for 100-plus years, 'These Parklands are important to Adelaide. We don't want to have ministers being able to simply go in and develop them.'

That is not to say that development in the Parklands is a bad idea. There are some really good developments, I think, that could occur in the Parklands. It is not about preserving the status quo—if it is grass now, it must stay grass. It is not saying that at all. It is basically saying it should not be up to a minister: it should be up to a proper development assessment authority using the normal process, which involves bringing the community along with you, so it includes public consultation.

That is the effect of the whole of my set 3. They are, technically, not all consequential because, whilst they apply the same principle, they apply it to different development streams, so we might have to test them individually. But, certainly, this amendment is the equivalent of the current prohibition on using major project status, or major development status, in the Parklands.

The Hon. K.J. MAHER: The government opposes the amendment. It was very nice that we got on well and compromised last time, and the next one I think we will support, but this amendment in the middle we oppose—as with the related amendments, Nos. 3 and 4 of set 3. It is correct that the Adelaide Parklands belong to everyone in South Australia. They are a great natural asset for this city and state, and there has been much commentary in recent years about how we can improve the Parklands as an asset for the South Australian community.

Internationally respected urban designer, Jan Gehl, highlighted the potential of the Parklands to be one of the world's truly great urban parks, but it is clear some of the current arrangements impede the capacity to necessarily realise this vision. Honourable members may recall when we were not able to build the footbridge to the new Adelaide Oval, a walk many South Australians have since taken and undoubtedly enjoyed, without having to undertake a whole range of convoluted changes to the planning system for that project.

This was simply an order to realise a piece of public infrastructure that everyone agreed is necessary. Although there were complaints before, you hear very few complaints now about it. As the expert panel recognised, South Australians should not have to be subjected to such a convoluted process. However, this will not change unless we have the ability to consider appropriate developments in the Parklands under the rigorous impact assessment process detailed in this bill.

The impact of the Hon. Mark Parnell's amendment would be to accept the statutory status quo that prevents the community from realising any betterment of the parks in a substantial way in a timely manner, potentially leaving the community with underutilised space rather than the great urban park to which we aspire and to which international experts point to. Even if declared, the council remains the custodian of the Parklands, but in their plan even small cafes are listed as noncomplying at present. If called in, it is subject to an environmental impact assessment with commission issued guidelines also in relation to consultation.

The Hon. M.C. PARNELL: In relation to that last point, I think the minister's notes predate the recent development plan amendment which actually took a whole bunch of things out of the noncomplying category for the Parklands which included all manner of infrastructure. He talked about a small cafe, but a large sewage farm in the Parklands has now been removed from the definition of noncomplying development, so I do not think it is consistent.

The minister said that what I am proposing is the status quo. I do not think—in fact, I know—it is not the fact that the minister cannot bulldoze through developments through the Parklands that is the problem. What the minister seems to be suggesting is that as soon as we remove the protection that is currently in the law—and I disagree that it is a rigorous process—the government will simply become the final decision maker for anything in the Parklands.

Whilst he might say there are all these rigorous processes—no, the bottom line is if you want the minister to be the final decision maker for anything in the Parklands, then opposing my three sets of amendments is the way to go. I have not heard from the Hon. David Ridgway yet, but I will remind him that these amendments are consistent with the view that his party has taken in relation to the O-Bahn, for example.

I just make the point that the Liberals in this place have often been staunch defenders of the Parklands. I think there was a disallowance of regulations that might have related to some part of the Riverbank redevelopment—the O-Bahn obviously. The point is without the protection of the status quo, then you can multiply many times the number of developments that the Liberal Party would certainly have trouble with, and I would hate to have to front the public meetings and say we had the protection but it got taken away. I would be confident the Liberals would be supporting this, but we will hear what they have to say.

The Hon. D.W. RIDGWAY: I want a bit of clarification. From my understanding of what the mover says, it is what he calls the open Parklands, not the institutional zones. If we are talking about a footbridge, that would not be captured by—

The Hon. M.C. Parnell: It's in the Riverbank zone, yes.

The Hon. D.W. RIDGWAY: It is in the Riverbank zone or the institutional zone along here. From our perspective, I assume the open Parklands are—and I need to get my head around it. The O-Bahn entry into the city is through the Parklands, and that is—

The Hon. M.C. Parnell: That's included.

The Hon. D.W. RIDGWAY: —subject to a DPA.

The Hon. M.C. Parnell: Yes, but that's Parklands zone.

The Hon. D.W. RIDGWAY: That is Parklands, so that part is included.

The Hon. M.C. Parnell: Yes.

The Hon. D.W. RIDGWAY: And obviously right the way around until we get to the West Terrace cemetery?

The Hon. M.C. Parnell: Yes.

The Hon. D.W. RIDGWAY: The cemetery has chunks taken out and then it is the open Parklands down to Port Road.

The Hon. M.C. Parnell: Yes.

The Hon. D.W. RIDGWAY: I can now visualise what it is. The opposition is interested to hear from the government as to what type of developments they would see that the minister would approve in that space that we are talking about. I think the minister talked about small cafes. I come to work often along Fullarton Road, come around the Britannia Roundabout and see the old kiosk that is a weatherboard building that I would have assumed would have had an opportunity to be viable.

I know there is a coffee shop in the base of the old Victoria Park grandstand that has been renovated. It is there, it has a barricade around it and nothing is happening. I am just a bit interested to know the types of developments that the minister or the government would say they envisage somewhere between the eastern Parklands, right the way around but clearly not the cemetery, and then opposite the Newmarket Hotel and adjacent to Port Road.

The Hon. M.C. PARNELL: Sorry, I just need to clarify something. When the Hon. David Ridgway painted his sort of word map of the Adelaide Parklands, I think what I said was accurate. The only thing I am not sure of is the zoning of the cemetery and the zoning of the Adelaide High School. I am very confident that the rest of what he described is Parklands zone.

My amendments remove the Riverbank zone, and the Riverbank zone includes everything from the new Royal Adelaide Hospital to SAHMRI. In fact, it includes Parliament House, Festival Plaza and all of that area. Then there are two institutional zones: there is an institutional zone that takes in Government House, and then there is another institutional zone that takes in the university and the hospital. I think I have accurately answered that. The only question mark I have is that possibly the cemetery and possibly the Adelaide High School might technically still be within Parklands. I do not have the zone map in front of me.

The Hon. D.G.E. HOOD: Perhaps I can just put our contribution forward while the minister is taking some advice. It probably again surprises no-one to hear that one of the most attractive parts of this bill to Family First was the fact that there is the possibility at least for some sensitive development in the Parklands, as the bill is presented.

As members know, I am a North Adelaide resident, and North Adelaide is of course the only suburb in South Australia that is surrounded by the Parklands, so it is something that I think is dear to the heart of most North Adelaide residents. I often walk through the Parklands myself, as do many people who come from near and far, I am sure, and I think what is clearly lacking in our Parklands is sensitive development.

When one travels to other parts of the world—I am thinking of New York City or Paris or London, for example—what you find is that the great parks of those great cities are full of cafes, restaurants and other developments that are relatively small but attract people to the area. At the moment, a lot of our Parklands are I think I heard the word 'grasslands' used, and that is exactly what they are.

In fact, on the North Adelaide side, they are literally paddocks because we have horses in them. That is great for those 30 people who get to keep their horses in those paddocks, but what about the 1.3 million people who might come there and go to a nice restaurant or enjoy some other facility? If we think about the Parklands, and think about the things that attract people to the Parklands, it is always development. Not many people go there just for open space. There are plenty of other places people can go to for open space—for example, the North Adelaide Aquatic Centre or

the, I have forgotten what it is called, restaurant that is on the southern side of the city. What is it called?

The Hon. M.C. Parnell: The pavilion.

The Hon. D.G.E. HOOD: Yes, Pavilion on the Park, thank you. Those are the things that attract people to the Parklands. That does not mean we should be building 27-storey, high-rise buildings in the Parklands—no-one is advocating that—but I think there is capacity for sensitive developments that people actually want to use. We can see them already everywhere. As I say, the North Adelaide Aquatic Centre is a very good example of that.

We strongly support using what is a great asset for Adelaide to facilitate sensitive development that would actually attract people to this wonderful resource that our state has and to provide a mechanism whereby it can get used. Before I am criticised by members saying this amendment does not preclude that, it does not and I accept that, but what it does do is make it harder—that is the reality. What we have seen under the status quo is that not much actually happens in the Parklands, as the Hon. Mr Ridgway just pointed out. We see this as a great resource that is underutilised, and the bill as it stands has the capacity to improve that situation, so we support the bill as it is in this regard.

The Hon. K.J. MAHER: To answer the Leader of the Opposition's question about the types of development, it is the commission that will set the guidelines; however, I think it is instructive to take note of what the Hon. Dennis Hood talked about. What you would envisage is sensible and sensitive development, a cafe supporting the recreational area, not building factories or giant waterslide parks across the whole of the Parklands, but sensible and appropriate development that adds to the amenity of the park—a cafe next to some of the playground areas that are already on the Parklands, for example.

The Hon. D.W. RIDGWAY: I think the Hon. Dennis Hood makes some very good points. After treasurer Foley was unable to get support for his grandstand, a bill passed the Legislative Council to give the treasurer and the government of the day the authority to do it. I think that is my recollection. I think my colleague the Hon. Terry Stephens put that bill. It did pass the Legislative Council, so that went through parliament.

The Hon. R.I. Lucas interjecting:

The Hon. D.W. RIDGWAY: It was one of the things that Terry did—exactly. Kevin Foley then lost his mojo and did not bother to progress with it. It does come back to the point: I come through the southern end and Dennis Hood is up in the northern end, and I think we would all agree that to have a coffee shop or someone selling a cool drink, maybe—

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: No, unlike the Hon. Kyam Maher, I do not like cream buns. I am concerned about the provision that will allow the minister to give approval for a small coffee shop but also for, let's say, a big grandstand or a big development in the Parklands. The dilemma we had last night on one of the clauses we were discussing was that it was almost too broad. I can indicate that the opposition's inclination is to support the Hon. Mark Parnell because the provision is too broad. There should be some way of having a mechanism whereby there are smaller, more sensitive developments.

It is all very well for the minister to say that it is up to the commission, that they are sensible developments, that we will not have water slides; and the Mark Parnell throws in the smelly red herring of a sewage farm into a park. We know that sort of stuff is not going to happen. I know that some people in the development world say that the way to get extra activity is to take a slice off the Parklands fronting Greenhill and Fullarton roads and put up some residential development. I think it would be a very brave government to do that, but those suggestions are floating around. The opposition will be supporting the Hon. Mark Parnell's amendment.

I will say to the minister that if there is some capacity to have, as I mentioned, a little weatherboard coffee kiosk that is still derelict sitting in Victoria Park, and if there are ways to activate those types of old facilities but also new modern ones that bring the activation, I do not think there

would be too many concerns from the opposition. We think that currently the provision is too broad and we do not wish to see the sort of developments that could happen without another layer of protection.

Are the golf courses in all the Parklands considered Parklands? I know they are under council control. I am asking the minister but I see the honourable Dennis Hood nodding saying they are Parklands. So they are deemed to be Parklands?

The Hon. K.J. MAHER: I am advised that the par 3 golf course is in the Parklands.

The Hon. D.W. RIDGWAY: I know that you are not a very good golfer, but I think the two normal 18-hole golf courses as well as the par 3 golf course are all in the Parklands.

The Hon. K.J. MAHER: I am advised that that is correct, and I can also inform you that I am a terrible golfer. I once played 18 holes before getting sick of it all.

The Hon. D.W. RIDGWAY: It does not surprise me; your capacity and, I guess, concentration would be a bit light on, I would think. But I am sure that at the clubhouse you can get a cool drink and some refreshments. That is the point I am trying to make: we are going to support the Hon. Mark Parnell, but I think there is some capacity and a little bit of appetite on this side of the chamber for some mechanism to have a sensible development, not delayed and not held up, and even mobile. My understanding is that we cannot even have mobile coffee vans and things in the Parklands. From our perspective, we do not want a big development without much thorough and robust consultation and process, but I think members can realise that the opposition, while supporting the Hon. Mark Parnell, will always be open to other sensible suggestions.

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

The Hon. D.G.E. HOOD: I can confirm to the Hon. Mr Ridgway that there is indeed a place where one can buy a drink at the North Adelaide golf course, and at very reasonable prices.

The Hon. D.W. Ridgway: Probably alcohol, is it?

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

Amendment carried.

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

Amendment No 75 [Parnell–1]—

Page 82, after line 29—Insert:

(7) The Minister must, in acting under subsection (1)(c), take into account principles prescribed by the regulations.

The government has indicated that it is going to support this amendment.

The Hon. K.J. Maher interjecting:

The Hon. M.C. PARNELL: If you have had a change of heart, I have a long speech. I think the government is supporting it, so I will not speak to it again.

The Hon. K.J. MAHER: The government supports this amendment and I thank the honourable member for his contribution.

The Hon. D.W. RIDGWAY: If the government is supporting it, then let's all get together and we will support it as well.

Amendment carried; clause as amended passed.

Progress reported; committee to sit again.

Sitting suspended from 12:57 to 14:15.

Petitions

MARTINDALE HALL

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 226 residents of South Australia requesting the council to urge the government to:

1. Prevent the sale and redevelopment of Martindale Hall.

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

Parliamentary Procedure

PAPERS

The following paper was laid on the table:

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

Variation to the Charter of Rights for Children and Young People in Care

Parliamentary Committees

SELECT COMMITTEE ON TRANSFORMING HEALTH

The Hon. S.G. WADE (14:17): I bring up the second interim report of the select committee.

Report received and ordered to be printed.

Ministerial Statement

DEFENCE WHITE PAPER

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) (14:17): I table a ministerial statement made by the Premier in another place on the topic of the defence white paper.

Question Time

INVITING THE WORLD TO WALK THROUGH OUR DOOR

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:18): I seek leave to make a brief explanation before asking the Minister for Employment a question about somebody he considers as one of his very best friends, the Minister for Investment and Trade, and his latest publication, *South Australia. Inviting the World to Walk Through our Door*.

Leave granted.

The Hon. D.W. RIDGWAY: I think it was a couple of weeks ago at a lavish function that this book was launched, and I was very privileged today to receive it in the mail from the Minister for Investment and Trade.

Members interjecting:

The Hon. D.W. RIDGWAY: It wasn't autographed and I'm disappointed, and that will be one of my questions: can they take it back and get it autographed for me? It was published a few weeks ago and launched at a function at the Adelaide Oval. It is interesting to note that it is very typical of a number of publications and what we see this government is telling all of us in South Australia about all the good work that the government is doing, when really realistically it should be advertising what we do for the rest of the world.

I also note, before asking my questions, that the photograph of the honourable minister, Mr Hamilton-Smith, is one that I suspect is at least 10 years old. That then brings into question the actual validity of the rest of the data in this particular publication if he is using a photograph that is potentially up to 10 years old. It looks like it was well before he was a leader of the opposition because he looks young and not too stressed. My questions to the minister are:

1. How many of these were printed and what was the cost of the printing?

2. In how many languages other than English were they printed and how many copies in those other languages were printed?

3. Why has the minister not used a current photograph of himself in the publication?

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) (14:20): I thank the honourable member for his hard-hitting questions and his continued attempts to bring down the government with his very difficult first question of the day. It is clear he is not one of the ones struggling for preselection at the end of this week, by the nature of his questions. He is not battling it out; he does not feel the need to perform in this chamber. However, I will take the questions on notice and bring back a reply to his very incisive questions about what photos were used.

NORTHERN ECONOMIC PLAN

The Hon. R.I. LUCAS (14:20): My question is directed to the Leader of the Government. Given that yesterday the minister indicated that the 15,000 jobs target for the Northern Economic Plan was a number that had been put forward by him as minister and the local mayors, can the minister outline to the house, once the decision was taken, to whom and to what section of what department he conveyed that decision that he and the local mayors took, and what then was the process for incorporation in the various documents that have been released now, such as 'Look North', by the government?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:21): I thank the honourable member for his question. I will stand up for the local mayors he so viciously keeps attacking in this chamber, the Mayor of Port Adelaide Enfield, Gary Johanson; the mayor of Salisbury, Gillian Aldridge; and the Mayor of Playford, Glenn Docherty. I will stand up for those mayors and for the great work they have done and they role they have played, and I do not care how viciously they are attacked by the Hon. Rob Lucas.

The Northern Economic Plan was a document worked on by the government and by those three councils. The document as a whole was a joint product of all those groups, and I think it is a document that has, in general, been very well received and that sets a course and charts a path for economic development in the north.

NORTHERN ECONOMIC PLAN

The Hon. R.I. LUCAS (14:22): A supplementary question arising out of the minister's answer: can the minister advise, once the decision had been taken by him and the local mayors, as he outlined, to which section of what department he conveyed that decision so that it could be incorporated into the various publications that were subsequently produced?

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) (14:22): I am not entirely sure what the question is. The document is not a decision taken by a single person; it is an aim, to set the path for economic development in northern Adelaide. I think it is a very good document and I think it outlines quite succinctly what some of the challenges are. It looks at some of the industries that are going to grow and it sets some aims to try to get to where we are going over the next decade.

NORTHERN ECONOMIC PLAN

The Hon. R.I. LUCAS (14:23): A further supplementary question arising out of the answer: is the minister now indicating, by inference, that he misled the house yesterday when he said that the 15,000 jobs target was a decision that he took in discussion with the local mayors?

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) (14:23): I think I have quite

clearly answered that. I am not entirely sure what the honourable member goes on about sometimes, and the selective way he tries to remember things from the past. As I repeated here today, this document was done jointly with the state government and those councils. I think it is a good document, the councils involved think it is a good document, and we stand by what we are aiming to do.

The PRESIDENT: The Hon. Mr Wade.

Members interjecting:

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

APY LANDS, STREET NAMING

The Hon. S.G. WADE (14:24): Thank you, Mr President. I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question in relation to the APY Lands Addressing Project.

Leave granted.

Members interjecting:

The Hon. S.G. WADE: Perhaps it would help if you were listening.

The PRESIDENT: There was a bit of noise over here. Would you like to repeat your question, Mr Wade?

The Hon. S.G. WADE: I would be happy to, although I have not actually got to the question yet. It is about the APY Lands Addressing Project.

On 9 February 2016, the infrastructure minister announced a $272,000 APY lands addressing project in South Australia's Far North. The project, which involved allocating house block numbers and naming 143 roads across the 13 APY communities, was jointly developed and funded by the Department of State Development, the Department of Planning, Transport and Infrastructure, Housing SA and SA Water. According to the statement of the infrastructure minister, the project was undertaken in response to the fact that:

> A lack of a nationally recognised addressing system had posed barriers to Aboriginal people accessing services such as registration and licensing…
>
> Online forms for everyday use such as registration, banking and Centrelink access were out of reach.

I am advised that, prior to the project, APY residents had been able to access a range of services by providing the name of their community. APY communities are relatively small and residents generally know each other and where they live, as do the local policing and support services. The management of mail is centralised and letters are not distributed to each property using a numbered mailbox.

I am advised that, as part of the APY Lands Addressing Project, no physical road signs have been erected in communities, as the funding did not include this activity. In the event that an external service provider visits a community to make contact with an individual or household and has their house number and street name, they will be unable to locate the house in the absence of any road signs and therefore will be required to, as is currently done, stop and ask other community members or visit the community council office during its opening hours. My questions to the minister are:

1. Given the pressing issues in APY communities that require urgent attention and funding support, such as a high level of hearing loss amongst Anangu children and the challenge of providing them with adequate and timely treatment, does the Minister for Aboriginal Affairs consider that spending $272,000 to number houses and assign street names was the most pressing use of taxpayers' money on the land?

2. Can the minister indicate when physical street signs will be erected in the APY communities so that the alleged benefits of the addressing project can be realised?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:26): I thank the honourable

member for his question and his ongoing interest in these matters. In terms of the very specifics about the erection of street signs, I don't have specifics with me but I will take that on notice and take it to the Minister for Transport and bring back a reply.

In terms of the project of numbering streets, the honourable member is absolutely correct that, while there are not many communities where most people do not know where everyone lives, the biggest community of Ernabella-Pukatja is under 1,000 people (probably 600 or 700 people) but many of the communities are much smaller, with over 100 being a major community. There are about six major communities across the APY lands and then a lot of smaller communities and homelands.

I will double-check, but I think it is the case that it is not just having mail delivered to your house: it is also having an address to put on a form. Many government departments, both state and commonwealth, require a street address as part of a form—particularly online forms, which are often much easier to fill out if you are in very remote communities—and not having a street address can be a hindrance to getting efficient access to government services.

While I do take the honourable member's point about the ease of being able to find people, I am guessing that having street addresses will help, particularly with things like filling in forms. I don't think it is a case of by doing one thing you are necessarily detracting from everything else you do. I think the more we can provide services and deliver programs that everyone else around Australia has come to expect in our remote communities like the APY lands is a good thing.

NATIONAL APOLOGY ANNIVERSARY BREAKFAST

The Hon. G.A. KANDELAARS (14:28): My question is to the Minister for Aboriginal Affairs and Reconciliation. Can the minister inform the council how South Australia has celebrated the anniversary of the stolen generations apology for 2016?

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) (14:29): I thank the honourable member for his important question and also acknowledge and thank the many members of this chamber who were at the apology breakfast recently. More than 1,500 people gathered around sunrise for the annual apology breakfast, remembering and commemorating the historic day in 2008 when the federal government spoke on behalf of the nation and expressed deep sorrow for actions of the past towards Australia's stolen generations.

For any members who have never been to one of the apology breakfasts, it is an incredibly powerful and moving experience. The breakfast opened with a procession of survivors of the stolen generation. It was quite emotional, with many tears around the room, as the procession took place. It was a very strong acknowledgement of what was being commemorated. There were many members of the stolen generation who, with very quiet dignity, walked in to a very silent room, but also it was a physical reminder of the burden many of the members of the stolen generation have been carrying for so long.

Following the procession, the Welcome to Country was delivered by Katrina Power who spoke very powerfully. Katrina spoke of the recent passing, as many members did in this chamber yesterday, of Auntie Josie Agius whose passing was felt widely by the community. At previous breakfasts, Auntie Josie Agius had delivered the Welcome to Country. I would like to take this opportunity to congratulate Katrina Power on her strong and powerful words. Her presence on stage was very powerful, and it was a very moving and fitting handing over from Auntie Josie Agius to Katrina doing that Welcome to Country.

I also acknowledge Professor Peter Buckskin, the Dean of Indigenous Scholarship, Engagement and Research at the University of South Australia and, for many years, Co-convenor of Reconciliation SA. Professor Buckskin was the MC for the breakfast, a Narrunga man from Yorke Peninsula, who spoke eloquently throughout the event. I would like to congratulate him for his work that morning and also his work over many decades, particularly in the area of Indigenous education.

I was honoured to have the opportunity to address the audience. I spoke briefly about the importance of recognition, to recognise the hurt, the pain, the separation and the ongoing grief that far too many Aboriginal Australians have experienced because of past policies of governments right

around the country. Towards the end of the breakfast, one of this country's most prominent Indigenous musicians and storytellers took the stage. The crowd of over 1,500 were absolutely silent as Archie Roach stepped up on the stage, supported by Nancy Bates and Ellie Lovegrove. Archie shared a number of songs with us, including at the very end his most powerful ballad from the very early 1990s, *They Took the Children Away*, which was a milestone in the fight for recognition of the stolen generations.

Archie spoke between the songs that morning and shared some exceptionally powerful personal stories, including his own story of being removed as a child. He talked personally about the disconnection from land, culture and families. There was a deep hurt that he and so many other people have carried with them all their life. He spoke to non-Indigenous Australians at that breakfast when he said this. He called for greater empathy, for the need for white Australians to better understand the hurts of Aboriginal Australians. He asked if, through empathy, our hearts would break for Aboriginal people, too.

I think a lot of people reflected that morning on how far Aboriginal people have to strive for this recognition and how too often that recognition is denied by non-Indigenous Australia. I think on reflection and from the speakers that morning, that is why the apology in 2008 was so powerful. It was that recognition that so many people in the Aboriginal community rightfully deserved, expressing the nation's regret and remorse—remorse for the forced removal of children from their families and communities, only to be placed in institutions around the country that led to lives of deprivation and hardship for many people.

That disconnection from culture, the oldest living culture in the world, a proud culture—and many people can trace their ancestry back, not just numbers of generations but for thousands of generations over tens of thousands of years. The theme for this year's breakfast was 'Heal our past, build our future, celebrating our heroes.' I think, as many people have acknowledged, Archie Roach was one of many people's heroes that morning.

I commend the work of Reconciliation South Australia—it has representatives from across the political spectrum who support it—for another phenomenally successful breakfast. I have been quite astounded over the last week at the number of people I have seen around Adelaide who have commented about how they were at the breakfast and how powerful and moving it was for them. I look forward to next year's breakfast and encourage honourable members of this chamber to attend if possible.

ROYAL ADELAIDE HOSPITAL

The Hon. D.G.E. HOOD (14:34): I seek leave to make a brief explanation before asking the minister representing the Treasurer questions regarding tenders for the new Royal Adelaide Hospital.

Leave granted.

The Hon. D.G.E. HOOD: Price has become one of the greatest bargaining tools when tendering for state development projects and for the tenders themselves, and companies who are able to deliver a product within an agreeable time frame, offering the cheapest price, are often the successful companies, but it's come to my attention that, whilst they may tender the cheapest price, certainly in several cases, they are actually not tendering like for like.

Allegations of deceptive tendering have come to my attention, particularly in regard to work to be completed on the new Royal Adelaide site, whereby certain operators have excluded necessary equipment costs within the tender thus artificially deflating the cost to government. Of course, once the tender is successful, the operators then create variations to the contract to extract further payment from the government for necessary items. This, of course, creates budgetary issues for the state and excludes genuinely competitive and complete tenders from being successful, potentially from other bidders. I am advised that this has occurred on a few occasions and, obviously, needs to be addressed. My questions to the minister are:

1. Will the government commit to reviewing the tender process and policies to ensure that only compliant tenders that will deliver all the necessary criteria and items as required are the successful ones and that variations to tenders are reduced, if not eliminated completely?

2. How many variations to tenders have been made on the new Royal Adelaide site, and what has that cost the taxpayer to date?

3. Will the government ensure that all tenders are published on the SA Tenders & Contracts website, including the successful tenders to ensure transparency in the selection process?

4. Will the government allow South Australian hospitals to consider having equipment supplied by other companies, or will they be locked into buying off the tender, as per the current process?

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) (14:36): I thank the honourable member for his questions and his interest in these matters. I will take those questions and seek a reply from the Treasurer.

NATIONAL WATER INITIATIVE

The Hon. J.S. LEE (14:36): 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. J.S. LEE: On Tuesday, the minister provided a response to my question regarding the government's allocation of water planning and management changes via the NRM boards. His response—no surprise—attracted a great deal of interest from a number of my colleagues in the other place, particularly the member for MacKillop, Mitch Williams.

The minister, he noted, didn't acknowledge that the National Water Initiative principle also stipulates that water planning and management processes are to be made public. For the honourable member's reference, the National Water Initiative principle on page 14, section 68, states:

> The States and Territories agree to report publicly on cost recovery for water planning and management as part of annual reporting requirements…

My questions are:

1. When will the minister make the total cost of water planning and management information available to the public, as according to the National Water Initiative principle?

2. When will the minister make the findings of the independent cost-effectiveness review publicly available?

3. Can the minister confirm that the water access entitlement holders are delivered and costed on their proportion of water based on their total activities to ensure all fairness has been taken into consideration?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:38): I thank the honourable member for her most important question, although I would caution her on relying on any information that's given to her by the pillock from MacKillop—the member in the other place. 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.

In the same way, water planning and management costs from my department are reported on in our annual reports. It is entirely up to any member who wants to go into those in more depth to do so, particularly in terms of our estimates process. So the member for MacKillop can at any time in the estimates process come in and sub in and ask those questions for himself. The honourable member has to understand—clearly she doesn't—that the water management costs to the public are rather large. They are over $40 million a year. I have outlined what some of those—

The Hon. R.L. Brokenshire: Table them.

The Hon. I.K. HUNTER: The honourable member says, 'Table them.' For goodness sake! They are in the budget papers, Hon. Mr Brokenshire. Do a bit of work yourself with all those staff you have supporting you. Go out and do some work, go through the budget papers and work it out for yourself. You're not that incompetent—or maybe you are.

I have said before in the public, I have said it in the media, and I have said it to the principals involved, to the key stakeholders, particularly primary producers, that if you have an issue, go and sit down with either the presiding members, or the NRM boards, or indeed my chief executives, and go through those costs line by line. We have absolutely nothing to hide. We are prepared to sit down with you and take the time to take you through all of those so you feel confident by that. I don't know what more we can do except to waste public money to chase down blind alleys for these calls for so-called independent reviews when the information is all out in the public already.

NATIONAL WATER INITIATIVE

The Hon. J.S. LEE (14:41): A question arising out of the member's non-answers: the minister mentioned the National Water Initiative and that the information can be extracted from NRM boards. The government indeed has signed those principles to release the setting of water prices and charges. So the government agrees that if the decision was made not to apply these principles in a particular case the reasons for this would be tabled in parliament.

The PRESIDENT: Order! A supplementary is just a quick supplementary question arising out of the answer, not a life story. Ask him a supplementary.

The Hon. J.S. LEE: Will the minister table those particular noncompliance issues as per the agreement?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:42): I haven't got a clue what the honourable member's talking about, and that is not unusual. We need to go easy on her. I understand from my colleagues that she is up for a preselection battle this week. Of course, she is one of the most competent Liberals on that side of the bench, which is not a huge claim, in fact, when you look at the quality over there. Out of the whole stream—

The PRESIDENT: Just keep to answering the question.

The Hon. I.K. HUNTER: —of those up, she is by far one of the best practitioners over there for the Liberal Party, and I wish her the very best of luck in her preselection.

IKARA-FLINDERS RANGES NATIONAL PARK

The Hon. G.E. GAGO (14:42): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about the recent visit to Wilpena Pound to celebrate the co-naming of the Ikara-Flinders Ranges National Park?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:43): I thank the honourable member for her most important question. She is a person who gives me a thorough grilling all the time on these issues, and I am very pleased to be able to give her a response.

On Friday 12 February, I had the very great pleasure of joining members of the newly named Ikara-Flinders Rangers National Park Co-management Board, the Vulkathunha-Gammon Ranges Co-management Board and some representatives from the Adnyamathanha Traditional Lands Association at Wilpena Pound. We were there to celebrate the two boards working together so very closely and to have a discussion with those boards, and also to acknowledge the co-naming of what was the Flinders Ranges National Park, which is now Ikara-Flinders Ranges National Park.

This is not just simply the addition of a word stacked onto the beginning of a name that we have known for a long time. In changing the name to Ikara-Flinders Rangers National Park, we are acknowledging in a very concrete way that long, long before the notion of national parks was even thought of, long before the first Europeans were there and the first pastoralists were working the area, the Adnyamathanha people were there as well, and they had been there for a long, long time

prior. The word Ikara, I am told, means special meeting place, and to the Adnyamathanha people Wilpena Pound has always been known as Ikara.

Around 170,000 people visit the park every year, from across the nation and around the world. Of course, they come for the natural environment, the breathtaking scenery, the ancient geological landscapes and the very high biodiversity values, but they also come to learn about the rich Aboriginal and, indeed, European cultural history, and the history of Aboriginal peoples and Europeans working together. The new name, together with the great work being undertaken by the board within the park, will deepen tourists' cultural understanding and appreciation of that fantastic location; that is my hope.

Since 2011, the Adnyamathanha people and the state government have been working in partnership to manage this park under the co-management agreement process. Co-management in South Australia was introduced first in 2004. It is a model which helps ensure that land is managed in a way that combines traditional knowledge with contemporary park management. There are many examples of very successful co-management in the Ikara-Flinders Ranges National Park. The board has developed a new management plan to ensure that Adnyamathanha cultural values are recognised and valued and protected into the future. The park's new interpretive plan will provide a strong Adnyamathanha perspective through interpretive signs across visitor sites within the park.

A new fire management plan for the northern Flinders will ensure that cultural practices associated with the use and management of fire are recognised and applied, and a traditional use zone has been developed for Adnyamathanha people where hunting and gathering can be undertaken in a safe environment . We are also working together to identify long-term plans to protect Sacred Canyon, a very significant cultural site that has been damaged by graffiti over the years and inappropriate visitation.

The co-management board and the Adnyamathanha people have also supported the reintroduction of two very special animal species that have become extinct in the area: the idyna, or Western quoll, and the wyulda, or brushtail possums, through the state government's Bounceback program. Each of these achievements are important steps in promoting Adnyamathanha culture to park visitors, as well as to local businesses and neighbouring landholders and other people involved in park management. The co-naming of the Ikara-Flinders Ranges National Park is a great achievement, not just for the Ikara-Flinders Ranges National Park co-management board but also for the broader Adnyamathanha community.

I might just say at this point that we are planning a much more public celebration of this later in the year, I understand, for the Adnyamathanha community, the local Flinders Ranges community, the two park co-management boards as well, and any other interested parties who may have an interest in being there. I will certainly circulate as broadly as I can some advance notice about that. As Michael Anderson, the chair of ATLA, said after the ceremony we had, 'Renaming of the park is the most significant act of reconciliation with, and recognition of, the spirit and culture of the park and its traditional owners, the Adnyamathanha.'

I would like to thank and commend the co-management board, its members both past and present, and ATLA for their commitment to our partnership to this very great important work.

ASYLUM SEEKERS

The Hon. T.A. FRANKS (14:47): My questions are to the Minister for Police and Corrections:

1. How many asylum seekers were arrested by SAPOL officers in the calendar years between 2012 and 2015?

2. How many asylum seekers had those charges eventually dropped?

3. How many asylum seekers whose charges were dropped remain in immigration detention centres, and what has been the duration of those stays?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:48): I thank the honourable member for her important question and appreciate her passion in the subject area of asylum seekers.

I am more than happy to take that question on notice, in light of its rather specific nature over a substantial time period and the multiple parts to the question.

What I can inform the chamber and council members and the honourable member of is that SAPOL arrest approximately 25,000 people in an average year, which is an incredibly large number of people that they apprehend. What percentage asylum seekers make up of that very large number, I am not sure, but I am more than happy to take that specific question on notice and provide appropriate details as soon as we get a briefing back from SAPOL.

ASYLUM SEEKERS

The Hon. T.A. FRANKS (14:49): Supplementary: my question was not about the percentage but the number. Could the minister also provide additional information about how many of those numbers were under 18?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:49): I am more than happy to try to ascertain those specific numbers from SAPOL and provide them accordingly. One thing I would draw the honourable member's attention towards is that that will necessitate some cross-jurisdictional fact checking, as I understand it, in light of this also interrelating with the Department of Immigration. I will be more than happy to undertake that work and get you answers as quickly as possible.

ASYLUM SEEKERS

The Hon. A.L. McLACHLAN (14:49): I have a supplementary question. The minister advised the number of people arrested, but can the minister advise of those arrested how many were convicted of a criminal offence?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:49): I thank the honourable member for his important supplementary question. What I can advise the chamber is that approximately 25,000 people were apprehended by SAPOL last financial year. In terms of the number of people who were convicted, I don't have that number at hand but you do give me a good opportunity to inform the chamber of the outstanding result that was released this week by the Australian Bureau of Statistics in regard to South Australian crime stats overall.

While it is true that the number of offenders across Australia last financial year increased by 4 per cent, in South Australia that number decreased by 2 per cent, so South Australia is doing an outstanding job when it comes to reducing crime. We have a very proud record of reducing crime stats throughout the entirety of this Labor government and that is something we will continue to pursue.

FIREARMS LICENCES

The Hon. T.J. STEPHENS (14:50): I seek leave to make a brief explanation before asking the Minister for Police a question regarding firearms licences.

Leave granted.

The Hon. T.J. STEPHENS: It has been reported to me that the Firearms Branch, with its site inspections over particularly the last six months, have taken on a much more sympathetic approach to licensed firearms owners and are using what I can only say seems to be a great deal more common sense than perhaps they once did. However, the SAPOL website states that licence applications submitted by 16 October 2015 are only being processed now. My question is: why is this the case and does it mean that applications lodged now won't be processed until June 2016?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:51): I thank the honourable member for his important question. The house should be aware of the fact that a great degree of effort and work has been undertaken, as I am sure the honourable member is aware, to improve the dialogue and regular communication between the SAPOL Firearms Branch and the firearms community at large. I think that was self-evident only last Saturday when I attended the Sporting

Shooters Association's regular quarterly meeting, in conjunction with leaders from SAPOL's Firearms Branch, and witnessed firsthand the productivity resulting from that improved relationship.

Your concern regarding the slowness in dealing with various applications and response from SAPOL is a legitimate question and one that is widely acknowledged by SAPOL. There is no doubt in the government's mind and in the minds of SAPOL and the firearms community that there is room for improvement around the expediency that can be undertaken in order to get people a response to their licence applications back in due course.

I am advised that a contributing factor to what can be seen as a lengthy process is the relatively old computer systems and processes that exist within SAPOL. SAPOL is currently in the process of undertaking a substantial review, looking at ways that those old legacy systems within IT can be updated, with a specific view to be able to speed up what is at the moment essentially a paperwork-driven process. That is work we are actively involved in and monitoring. The government is continuously assessing how it can improve the funding of such upgrades to IT within SAPOL to improve its IT, not just within the area of the Firearms Branch but more broadly.

This is something about which there is a degree of awareness in my mind, in my office and in the government more broadly and in SAPOL. I am satisfied that SAPOL is committed to being able to speed up the process so that licensed firearms users, who are simply trying to do the right thing by having firearms registered and obtaining appropriate licences before they undertake the use of those weapons, can get an adequate and quick response, just as we have been able to improve the relationship between SAPOL and the way it deals with people who use firearms accordingly.

BAND OF SA POLICE

The Hon. J.M. GAZZOLA (14:54): My question is to the Minister for Police. Can the minister advise the council on the role, history and future of the police band, particularly the work it does in the community?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:54): I would like to thank the honourable member for his important question. The timing of this question is outstanding because my office received a flurry of correspondence via email yesterday evening and this morning as a result of a great deal of confusion that exists within the community arising out of Liberal questions, and an announced intention to interrogate the police commissioner over the role of the Police Band.

I cannot tell the council how upset I have been to have had to reply, or to be in the process of replying, to these heartfelt messages coming across from our community to reassure them of this government's commitment to the Police Band, unlike what appears to be the case opposite. The highly regarded and greatly loved police band of South Australia plays a very important role in police operations. The band is steeped in history; indeed, it is the oldest police band in the nation and has over 130 years of active service. The band became a full military band in 1974.

There is a strong history of critical acclaim for the band as well as significant international recognition for its performances. It is a widely awarded band and performs on the international, national and local stage on a regular basis. The benefits of performances like these are that they are broadcast throughout the world, including on the BBC throughout the United Kingdom. I am also informed that the band's much coveted upcoming performance at The Queen's 90th birthday will be a performance telecast throughout the commonwealth as well as into the United States of America.

It is through the efforts of government, now underway, that SAPOL and Tourism SA are working very closely together to maximise the benefit of this extraordinary opportunity to promote our state. I have been advised that while the police band is performing on this international stage there will be opportunities to provide live images of everything that South Australia has to offer as a tourism destination. Why anyone would want to question the contribution the band makes to our society is utterly beyond me.

The Police Band provides performances that appeal to a wide range of audiences from preschoolers through to senior citizens. It plays an important role in supporting SAPOL messages on wise choices, particularly with young people in relation to safe driving and the dangers of illicit drugs. It is in this manner that our Police Band is on the front line of crime prevention.

I think it has been suggested recently by one Liberal member of parliament, that the Police Band is not on the front line. That is an appalling suggestion. The police band is on the front line all the time; indeed, I have been advised that the Police Band performs, on average, approximately 400 performances a year out on the front line, engaging with the grassroots of our community.

There is little doubt in the government's mind and there is little doubt in SAPOL's mind, I have been advised, that the Police Band performs an incredibly important role when it comes to crime prevention through active engagement within our community. This government will stand lockstep with SAPOL and Police Band members to ensure they continue to provide this outstanding service to our community.

EATING DISORDERS ASSOCIATION OF SOUTH AUSTRALIA

The Hon. K.L. VINCENT (14:58): I seek leave to make a brief explanation before asking the minister representing the Minister for Mental Health questions about the cessation of the Eating Disorders Association of South Australia (EDASA).

Leave granted.

The Hon. K.L. VINCENT: As members are probably well aware, there have been many concerns in the community since EDASA announced the cessation of its services in November last year. As I understand it, EDASA had not received any support or funding from the state government over the previous three years before its closure. An open market tender call was undertaken in 2012-13 for non-government eating disorders support services and, as result, EDASA's tender was unsuccessful and the tender was awarded to Centacare.

EDASA offered regular support groups for those with eating disorders and their friends and families. The association also presented to schools, parents and professionals through its prevention and health promotion programs and youth forums. Since the closure of EDASA I understand that there are concerns in the community that the services previously offered by EDASA have not been replaced to the same standard. My questions to the minister are:

1. What education about eating disorders is currently running for young people in particular and, again, particularly in schools?

2. Does the government recognise and acknowledge the benefit of providing eating disorder prevention services to young people for their physical health, mental health and positive body image?

3. Will the government consider including prevention services in future eating disorder tender criteria?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:00): I thank the honourable member for her most important questions. I will take those questions to the Minister for Mental Health and Substance Abuse in another place around the subject matter of the provision of services around eating disorders and positive body image and seek a response on her behalf.

CLIPSAL 500 TICKETS FOR VOLUNTEERS

The Hon. A.L. McLACHLAN (15:00): My question is to the Minister for Emergency Services. Are Clipsal 500 tickets being provided to CFS volunteers again this year, as has been the practice in previous years, and will they be tickets for the weekend race days to ensure volunteers will not be required to take any personal leave to attend the event?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:00): I am of the understanding and have been advised that a number of tickets to volunteers within our community are being distributed. I am advised that the way those tickets is being distributed is through the relevant volunteer organisations, both the SES and CFS volunteers associations. I have been advised that it is a substantial number of tickets—I do not have the specific number of tickets at hand—and I believe, and I am more than happy to double-check this, that it is the number of tickets consistent with what has been the case in previous years. As to the specific days on which the tickets provide access, I

am more than happy to take that question on notice and provide an answer to the honourable member as quickly as possible.

CLIPSAL 500 TICKETS FOR VOLUNTEERS

The Hon. T.A. FRANKS (15:01): Supplementary: could the minister also bring back information, or provide it now if he knows it, as to which budget line the allocation of these tickets is covered out of?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:01): I am more than happy, again, to take that question on notice and come back with an answer but, as I understand it, the provision of tickets to volunteers in our community has wide support amongst the community at large and is funded through the appropriate measures that exist within the funding of Clipsal, and so forth. I am more than happy to come back with a specific answer and take that on notice.

SPIRIT FESTIVAL

The Hon. G.A. KANDELAARS (15:02): My question is to the Minister for Aboriginal Affairs and Reconciliation. Can the minister inform the council about how Aboriginal culture was celebrated at the Spirit Festival?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:02): The Spirit Festival is in its eighth year and continues to grow as a celebration of Aboriginal and Torres Strait Islander culture. The Spirit Festival started in 2008 as one of the Labor government's social inclusion initiatives and it has matured into a stand-alone annual showcase of the best of Aboriginal and Torres Strait Islander culture.

The six-day event provides opportunities to see Aboriginal dance, music, theatre, arts and literature, and the opportunity to participate in workshops of all sorts, from face painting for kids to learning to cook bush style. Presented by Tandanya, the National Aboriginal Cultural Institute, Arts South Australia and Adelaide City Council, this year's Spirit Festival entertained thousands of people who came to experience this free and open event.

I attended the Spirit Festival on Saturday with my family and would like to acknowledge Karl Telfer and the Paitya Dance Group, who opened the day with traditional words of dance and welcome. The welcome included a spirit fire where the audience was invited to come up and be cleansed through ceremony and smoke. The performance at the start was very moving, with both young Aboriginal men and women participating in a dance that showcased Kaurna heritage and culture.

Following the welcome, the festival really got going with a number of workshops, including songwriting with Robert Champion, theatre with Natasha Wanganeen and Pulgi Wodli making with Allan Sumner, which provided attendees with the opportunity to learn how to make traditional Aboriginal shelter using branches, leaves and sticks. Taunondi College was represented at the festival with a native cooking and tasting class. Nancy Cook led a Torres Strait Islander weaving workshop that gave attendees the opportunity to make skirts, headbands, armbands and bowls.

Of course, no Spirit Festival is complete without a big concert on the Saturday night. Past performers have included big names such as Jessica Mauboy and Dan Sultan, and this year's headline act was Casey Donovan. I was able to see some of the music performances during the afternoon. There were other standout musicians such as the Noel Bridge Band, Lady Lash, Philly, Troy and Dean Brady, and many other bands and individuals.

The Spirit Festival provides an opportunity to showcase Aboriginal and Torres Strait Islander culture to the rest of South Australia. There are so many reasons why the culture should be cherished and displayed. It is the oldest living culture in the world and it is great to see so many South Australians at this time of the year with so much going on availing themselves of the opportunities.

The Spirit Festival was developed so that Aboriginal South Australians could showcase artistic performances and creative endeavours in order to teach younger members of our community,

both Aboriginal and non-Aboriginal people, about the value of embracing culture and heritage. It proudly works to promote and celebrate cultural knowledge and identity.

The Tandanya National Aboriginal Cultural Institute is the official host of the Spirit Festival and a fantastic venue for such a thing. Tandanya plays a key role in preserving and supporting Aboriginal and Torres Strait Islander arts and culture and in providing opportunities for the broader community to gain exposure and understanding so that we can all join in the important work of celebrating and protecting this culture. I pay tribute to Klynton Wanganeen and his team at Tandanya. Klynton also spoke on the Saturday of the festival.

All these elements, such as the Spirit Festival, are an important part of progress towards reconciliation. I thank and commend all the performers and all the organisers who contributed to this year's Spirit Festival. Their dedication in promoting culture makes an important contribution to our whole community especially in terms of the crucial task of preserving and celebrating culture.

I pay tribute to the chief executive of Tandanya, Timothy Richie; creative producer of the festival, Angela Flynn; and the MC on the day, Natasha Wanganeen, who many people would recognise from her performance in the film *Rabbit Proof Fence*. I look forward to next year's Spirit Festival and hope the community continues to embrace this important part of the Fringe agenda.

NORTHERN ECONOMIC PLAN

The Hon. J.S.L. DAWKINS (15:07): I seek leave to make a brief explanation before asking the Minister for Automotive Transformation questions regarding the inclusion of the town of Gawler in the rollout of the government's Northern Economic Plan, entitled Look North.

Leave granted.

The Hon. J.S.L. DAWKINS: On 18 November last year the minister confirmed in this chamber to me that the Northern Adelaide Economic Leaders Group would only include him and the mayors of Playford, Salisbury and Port Adelaide Enfield, and not the adjoining councils of Gawler and Tea Tree Gully, but that 'We will consult with councils like Gawler and Tea Tree Gully.'

Earlier this year, the Premier and the minister released the long awaited Northern Economic Plan, entitled 'Look North'. On page 10 of the document the government boasts there is a key initiative, supporting the north of Adelaide, in an investment of $55 million on the construction of the Gawler East Link Road. The plan includes details of the spending on this project on page 37 which states under the section Strategic Direction 1—Industry Growth, Transport and Logistics:

> Gawler East Collector Link Road, Lead Agency—Department of Planning, Transport and Infrastructure, commencing September 2016. The $55 million, 2.8km Gawler East Collector Link Road will enable access to and further expansion of residential development east of the Gawler township. Construction will be completed by 2019 and includes upgrading the intersection at Main North Road, Potts Road and Para Road to create a 4-way signalised intersection.

Given that that particular aim—that is, to bring that link road onto Main North Road at the Potts Road intersection—is particularly controversial in Gawler and, as I understand it, the government has that under review because the Town of Gawler is not in favour of that outcome, and so it is yet to be determined, would it not be appropriate that the Town of Gawler be included in the actual lead of the group on this matter rather than being one on the outside and, as the minister said, consult with them? This link road has been flagged as one of the key points in the document and, obviously, the work that's been done to its outcome has been flawed, and that may not have happened if the Town of Gawler had been inside the tent rather than outside.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:10): I thank the honourable member for his question and his quite genuine interest and knowledge of these areas. I absolutely acknowledge the interest of people in Gawler and townships further out than Gawler in northern Adelaide in what's happening in northern Adelaide. I know I have spoken with the Mayor of Gawler previously. It certainly is the case that the transformation we are seeing in northern Adelaide—the reason why we have put together the Northern Economic Plan—is led largely by the slowdown in the automotive industry and in preparation for when Holden stops manufacturing cars at the end of 2017.

As I am aware, and as I have discussed with people like the Mayor of Gawler, it will not only affect those council areas that have been direct partners of the plan but it will be felt much wider. Certainly, there are many people who live in other council areas, and Gawler is certainly one of them, who work in northern Adelaide and who are exposed to the automotive industry, and it's even further afield. With regard to the western and southern suburbs and supply chain companies in the automotive area, there are still many workers whose jobs and whose lives will be greatly affected.

It is the case that, whenever you develop something like the Northern Economic Plan, you sit down and look at the area that's going to be most directly impacted and, by the nature of consulting with some people, you are necessarily, by including some in particular, not including others. I do recognise that Gawler has a very, very big interest in what happens in northern Adelaide. We will consult with the people of Gawler and their council.

In response to something that was previously asked about, I think, one of the consultation methods of Tele-Town Hall, we are preparing to do another round of that and certainly will include Gawler, as the Hon. John Dawkins has previously suggested. I think that was a good idea, and I thank him for his feedback but, whenever something is developed, by necessity there will be people who are directly included and there will be others who are consulted with, but I do absolutely acknowledge that what happens in northern Adelaide has an impact in Gawler. What happens in Gawler, and certainly areas further afield than Gawler, has an impact on northern Adelaide as well.

NORTHERN ECONOMIC PLAN

The Hon. J.S.L. DAWKINS (15:13): A supplementary: I thank the minister for his answer, but will he concede that it may have been more accurate in that document to actually indicate that the Gawler East link road connection at Potts Road had certainly not been determined? It seemed, in that document, to be like it was set in concrete; that's certainly not the case.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:13): I apologise if the way it's been interpreted is that anything in that document is something that was absolutely set in concrete. Certainly, that document looked at a number of possible projects in the future. We wanted to include as much as we reasonably, possibly could about what may be happening.

Certainly, it outlined some of the industries—six key industries—that we think will have a great opportunity to grow. That's not to say that there aren't other areas or other industries, and it's not to say everything there is set in stone, but we wanted to try to put as much as we could in. I take the honourable member's point. I am not intimately familiar with the road project, but I will certainly pass on the points that he has raised today to my colleague the Minister for Transport.

YORKE PENINSULA ENVIRONMENT POLICY

The Hon. R.L. BROKENSHIRE (15:14): I seek leave to make a brief explanation before hopefully seeking an answer from the minister for environment, water and natural resources, sustainability and climate change, and everything else.

Leave granted.

The Hon. K.J. Maher: If you ask sensible questions, Brokey.

The Hon. R.L. BROKENSHIRE: I do, but I don't get sensible answers. Yesterday, we attempted to find out for very concerned farmers in particular, especially on Yorke Peninsula, where the minister and his department are heading with respect to burning stubble policies and also campfires and pit fires for tourists. I am advised that this has not occurred, but I just want to give the minister a chance to correct me because he loves that. My questions are:

1. Minister, has your department had a public consultation meeting with the farmers and community of Yorke Peninsula when it comes to this proposed policy change?

2. Is the minister aware that if the policy change says that they cannot burn within 200 metres of a township it could have serious impact on those farmers farming around the township and serious impact on feral pests such as snails?

3. If the minister has not had a public consultation for the Yorke Peninsula area, will he instruct his department as a matter of urgency to have this consultation and stop the stress that is now on farmers and their families on Yorke Peninsula?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:16): I thank the honourable member for the most important question and his ever hopeful attitude in this place to getting wonderful answers. He will only get them, of course, from ministers on this side of the chamber because we are the ones who have such great respect for the honourable member's role in this chamber. He has a long history, of course, with experience in opposition, experience in government, and now experience on the crossbenches, so more than most in this place.

The Hon. R.L. Brokenshire: And experience in helping you as a government.

The Hon. I.K. HUNTER: Indeed, the honourable member is very helpful to me in my life and my career as well, most often as being someone people can compare me to and say, 'Thank God you're not like him.' And that's always useful, to have someone you can stand against like that and people say, 'Well, you know, you're not quite so bad as I thought you were in comparison.' Then when we talk about those opposite the challenges are even greater, but we won't go there. I know a number of them are facing preselection battles this week, and I wouldn't want to make their job any easier or any harder—

The Hon. T.J. Stephens interjecting:

The Hon. I.K. HUNTER: Mr President, the Hon. Terry Stephens happens to be one of the nicest Liberals I have ever come across. He is always very helpful to the Labor government, the Hon. Mr Stephens. He is one of the nicest opposition members I can—

Members interjecting:

The Hon. I.K. HUNTER: Any intervention I can make in the Liberal Party preselection of course is going to be unhelpful for all and sundry, so I might just refrain and go back to the Hon. Mr Brokenshire's question, as I should.

An honourable member interjecting:

The Hon. I.K. HUNTER: Yes, I do indeed. It was question he tried to allude to yesterday not very well, but of course he has reflected on that somewhat and come back to the chamber with a more concise question. It is about consultation. Of course, I don't have a list before me—

The Hon. J.S.L. Dawkins: It was about Yorke Peninsula, as I remember.

The Hon. I.K. HUNTER: Well, today it was.

The Hon. J.S.L. Dawkins: That's what we thought you were answering.

The PRESIDENT: Order! Let's get to the grit of the question. Minister.

The Hon. I.K. HUNTER: Thank you, Mr President. In terms of the consultation that the EPA has been conducting on this matter, I don't have a list before me of where those public consultations have been held. I do know, or I do think I know, that one of them was down in the south—the Onkaparinga council area comes to my memory—but I will go back and task the EPA to give me that information, to find out where around the state those consultations have been held with the public.

I just go back to the point that it's the government's policy to actually consult with communities. When we are out reviewing our policies and our processes, when we are out wanting to update a policy which may not have been updated for a number of years, our first instinct is to go and talk to stakeholders and members of the public and say, 'How has this policy worked for you in the past? How can we improve on it and make it better for the future?' I just think that's an appropriate way to deal with these issues.

Then the agency will come to me with a summary of the recommendations that have come up to them through stakeholder meetings, through public engagement processes, about how this can be approved and also with their own expert input as an informed agency with expert staff and, in this case, often scientifically trained staff. That is the appropriate course of action, not for me to stand up

in here and proclaim what I think should be changed, ahead of having a report back from that public consultation and feedback that is so very vital. That is what this government stands for.

We want to engage with communities, hear from them about what changes they need and what will make their lives easier. We try to work that around the latest scientific information and best practice that we learn from interstate and overseas, and then put that into a document. Normally, it is a draft document that comes to me, and then we put it out for final consultation and review in a very short space of time before finalising that.

That is the process for the honourable member—he probably doesn't understand that because it is not the way his former Liberal government acted in this state, but by making absolute dictates and then trying to defend them. We don't work that way.

Members interjecting:

The PRESIDENT: Order!

Bills

GOVERNMENT HOUSE PRECINCT LAND DEDICATION BILL

Committee Stage

In committee (resumed on motion).

Clause 1.

The ACTING CHAIR (Hon. J.S.L. Dawkins): When we last met we were considering clause 1 and there were a number of contributions on that clause. I gather that the minister has some answers.

The Hon. K.J. MAHER: In relation to a number of questions that were put in many different ways by a number of different members, I can advise the chamber that the advice I have is that the government was advised by their legal advisers in the Crown Solicitor's Office that the prerequisite for construction was the parliamentary Public Works Committee approval. The project went to the parliamentary Public Works Committee and was approved in July 2015, in accordance with the legal advice it received.

The land is under the ownership of the Crown and will continue to be. However, the care and control of management of the memorial walk is vested in the Corporation of the City of Adelaide. There is no transfer of title and, again as we have said, this bill seeks to move the boundary.

The Hon. R.L. BROKENSHIRE: Still on clause 1, I have a question further to the response from the minister, for absolute clarification. Assented to on 13 October 1927 was an act to dedicate and reserve for all time certain lands as a Government House domain and as a site for a national soldiers memorial. It was assented to on behalf of His Majesty by Tom Bridges, governor.

My question, therefore, given the minister's answer is: I take it that the minister is saying that, because this legislation was for all time, that this still stands and that even though the responsibility of some of this land now goes to the Adelaide City Council, as I understand the minister indicated before (if it does not, who does it go to?), so why do we have this piece of legislation now if it is staying in the name of the Crown and if therefore we are honouring legislation from 13 October 1927, where for all time Government House domain remains as Government House domain?

The Hon. K.J. MAHER: I thank the honourable member for his contribution. I have some advice that I think directly answers the question. Under clause 6 of the bill, it is very clear that Government House domain land continues to be land dedicated for the purposes of being used as a site for the residence of the Governor and for incidental purposes, and the land continues to be reserved at all times for those purposes and must not be used for any other purpose.

The land still stays as Government House domain land, but it is used for the incidental purposes of this walk. There is no transfer of the title, but the land in question will be under the care and control and management of the Corporation of the City of Adelaide but, as clause 6 makes very clear, it continues to be land dedicated for that purpose which the honourable member was referring to.

The Hon. A.L. McLACHLAN: By way of clarification of the minister's original answer, I understand it, on crown law advice the Public Works Committee could give the go-ahead, regardless of the need for this bill; is that correct?

The Hon. K.J. MAHER: I am very happy to repeat exactly that the advice is that the government was advised by the Crown Solicitor's Office that the prerequisite for the construction was parliamentary Public Works Committee approval.

The Hon. A.L. McLACHLAN: Parliamentary approval does not mean that it is legal; it just means that it has been approved by a parliamentary subcommittee. It does not mean that it has sufficient legal authorisation to proceed.

The Hon. K.J. MAHER: I am not going to repeat it again. If honourable members do not want pass this bill now, that is fine. We can keep going around and around in circles. I have put the advice, as was asked for earlier this morning. I think I have done what has been reasonably asked by honourable members this morning. If people do not want pass the bill, that is fine; we will come back and look at it in a couple of weeks' time.

The Hon. R.L. BROKENSHIRE: On that point, I am offended by that. I do not get offended easily, but I am offended by that because basically what the minister is saying is, 'Stuff you. If you don't want to pass the bill because you're going to actually interrogate and look for some specific principles to be answered properly, then we'll leave the bill for two or three weeks.' That is not what I am saying. It is confusing because, as my colleague the Hon. Mr McLachlan has indicated, indications like that for Public Works sign-off are nothing to do with the legal aspects of this at all. I would ask that the minister actually table for the Legislative Council that advice that was given by the Crown Solicitor's Office or crown law.

The Hon. K.J. MAHER: This is the last time that I will respond to the exact same question we have had going for the last hour and a half, or however long we have debated this bill. I will speak very slowly.

The advice is that the government is advised by the Crown Solicitor's Office that the prerequisite for construction was parliamentary Public Works Committee approval. The project went to the parliamentary Public Works Committee and was approved in line with the legal advice received. So the prerequisite for construction was the parliamentary Public Works Committee. If you have further questions or you want to ask something in different ways, you will elicit the same response, so maybe just put all the questions on there, then ask to report progress again and we will come back in a few weeks.

The Hon. R.L. BROKENSHIRE: As someone who does not work in crown law, but has a piece of legislation to be considered right now that we are dealing with, based on your answer and based on the fact that the land is staying in the ownership of Government House and the Crown, why do we need this piece of legislation? Just a simple answer.

The Hon. K.J. MAHER: Against my better judgement I will answer this one further question. It is to realign the boundary so that the care, control and management of the memorial walk is vested in the City of Adelaide. If this bill is not passed nothing will happen to the wall. The wall will be finished, it will just stay on the land where it is and it will not be under the care, control and management of the Corporation of the City of Adelaide, as it should be for a public walk like this. As I said, if the honourable member wants to report progress again, we know where the numbers will lie once more. It is completely up to—

The Hon. G.E. Gago interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): The minister is not being assisted by the Hon. Gail Gago. The Hon. Mr Wade has the call.

The Hon. S.G. WADE: If I correctly understand—

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: Sorry, you're not the leader anymore. If I understand the minister correctly—

The Hon. G.E. Gago interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): No, the Hon. Gail Gago is out of order. The Hon. Mr Wade has the call.

The Hon. S.G. WADE: Minister, if I understand your advice correctly, schedule 1 in the bill, where it shows the commemorative walk, the land tenure boundary on the eastern boundary is the same after this bill as it was before this bill. All the schedule does is identify where the walk goes. Is that a correct understanding?

The Hon. K.J. MAHER: I can advise the honourable member that he is wrong. That is not the case. That boundary moves in from that outer boundary in schedule 1 to the inner boundary there. That is what I have just been advised.

The Hon. S.G. WADE: Sorry, I meant legal tenure. I thought you were trying to say to us that the tenure boundary, the land boundary has not changed.

The Hon. K.J. Maher: It is clause 6.

The Hon. S.G. WADE: I did hear you read clause 6 so eloquently but I was trying to relate that to what is in the schedule. My understanding of what you were saying was that, if you like, the tenure boundary is on the eastern side and it has not changed; all we are doing is that the schedule now shows the walk within.

The Hon. K.J. Maher: Yes, and who has care and control.

The Hon. S.G. WADE: Yes, and I accept that. I would like to move on to the next issue which is section 757. The 1927 parent act which we are seeking to amend here does not have section 757 which is the north-eastern corner in schedule 1 within the subject land. Is that a case where the tenure has been changed?

The Hon. K.J. MAHER: I am advised—

The Hon. G.E. Gago interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Gail Gago is not assisting the minister. The minister has the call.

The Hon. K.J. MAHER: I am advised that the section that the honourable member helpfully came over to point out, section 757, previously has been crown land but not defined as Government House land—although it has always been occupied by Government House—and that anomaly is being remedied by this. The cut-out that is not shown in the original schedule is crown land but in the new schedule, he is right: although it has always been occupied by Government House, that does come into Government House land.

The Hon. S.G. WADE: Would it therefore be the case that whereas this morning the members were exploring, if you like, whether the Government House domain was being reduced, in fact under this bill it will be increased?

The Hon. K.J. MAHER: It is a technical point. It is all crown land but that is the practical effect, yes.

The Hon. J.A. DARLEY: Correct me if I am wrong, but the minister just said that it is all crown land.

The Hon. K.J. Maher: Yes, it is.

The Hon. J.A. DARLEY: Under the Crown Land Management Act you can vest land in the care and control of the council without an act of parliament. You have got it.

The Hon. K.J. MAHER: It is all crown land; however, there is an act of parliament that talks about Government House land. So while it is all vested in the Crown this moves it within the act, that very small bit, but it takes the care and control to the Adelaide City Council.

The Hon. A.L. McLACHLAN: I am not sure if it is actually crown land. I think it—

The Hon. K.J. Maher interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order! The minister is out of order. I have given the call to the Hon. Mr McLachlan.

The Hon. A.L. McLACHLAN: Thank you for your protection, Mr Acting Chair. I am not entirely convinced it is crown land; I think it is reserve land under a particular act, but I am not going to press the minister on that.

The Hon. G.E. Gago interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order!

The Hon. A.L. McLACHLAN: The Hon. Gail Gago is insisting that I pursue this to its very end, and I would not like to disappoint the former leader of the government. If it is crown land, can the minister assure the chamber that, given there is some form of alienation of the land by the bill before the chamber, standing order 268 does not apply and it is a hybrid bill that requires a select committee?

The Hon. K.J. Maher: Which part of the land are you talking about?

The Hon. A.L. McLACHLAN: I am talking about the land that is subject to the bill before the chamber. There is some form of alienation, as in change in its status. I am asking for an assurance to the chamber that this bill cannot be construed as a hybrid bill under standing order 268, and therefore we need a select committee.

The Hon. K.J. MAHER: I do not have specific advice on that, but if that particular standing order was something that ought to have been considered I am very confident that parliamentary counsel would have considered that.

The Hon. A.L. McLACHLAN: It is not the most satisfactory answer, but—

The Hon. G.E. Gago: Have a committee; come on, let's have another committee.

The Hon. A.L. McLACHLAN: I am not going to take the advice of the former leader, the Hon. Gail Gago, to have a select committee. My reading is—

Members interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): There is too much conversation across the chamber. The Hon. Mr McLachlan has the call.

The Hon. A.L. McLACHLAN: The minister was very confident on his standing orders the other day, but I would have to say that—

Members interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Mr Lucas and the Hon. Mr Kandelaars are not helping, nor is the Hon. Mr Wade. The Hon. Mr McLachlan has the call.

The Hon. A.L. McLACHLAN: Thank you for your protection, Mr Acting Chair. My reading is that it is a sequential reservation from the 1927 act, and therefore my reading (although I do not profess to be an expert lawyer in this area) is that standing order 268 is not applicable. However, given that the minister cannot take us much further with this, the Liberal Party will proceed to facilitate the passing of this bill in the committee stage on the basis that the minister gives an undertaking that further questions from Liberal Party members will be facilitated subsequent to the passing of this bill. If the minister can give that undertaking, then I might say a few words summarising our position. I will leave it to the minister to give that undertaking.

The Hon. K.J. MAHER: I give an undertaking that I am happy for any questions you have to see if there are answers that can come back. I am happy to throw our departmental people to the lions again if you have questions you want to ask of them, as well.

The Hon. A.L. McLACHLAN: This will be the test of the minister's undertaking; I asked for it and I receive it in good faith. The Liberal Party will obviously pass this bill. I am not entirely convinced that there has been a full legal review, but we will take it on faith.

I reiterate our position that we support the creation of the ANZAC walk, and I thank the other honourable members who have supported the party's position into the committee stage. My personal view is that it is not a particularly aesthetic walk but, as I said in my second reading speech, I bow to the consultation process. Some of us in this chamber will continue to fight the good fight on keeping the Dardanelles cenotaph in the southern Parklands, and that will be an advocacy program seeking social action that will go on beyond this committee stage.

The Hon. R.L. BROKENSHIRE: I want to put a couple of remarks on the record as well because I think there is a serious message here for the government in the future, and I hope that the Leader of Government Business in this house will take this back to his cabinet and, particularly, the lead minister in this case, the Hon. Martin Hamilton-Smith (Minister for Veterans' Affairs for the South Australian government). I think this has been very poorly handled by the minister and I think it is time that the minister and, also, the department and agencies realised that they should go through due process and due diligence and respect the parliament and actually work properly through the process, not try to retrospectively fix things.

I am not convinced that they have had proper legal advice. I think there is some confusion now from some of the answers—which I do not blame the Leader of Government Business for, but I blame others who have given him that advice or have not done due diligence in their work—as to why we really even need this piece of legislation now, and I support what the Hon. John Darley said. Notwithstanding that, even though governments get arrogant and lazy and think they are here forever, they have to actually work through process. As one of the 22 members here, I am asking them to respect this parliament and go through proper process in the future.

We support the walk but we do not support the way in which this shabby piece of legislation has been put together. It is one of the shabbiest pieces of legislation and processes that I have seen for a very long time, and I hope the government takes that comment and sharpens up a little bit, particularly one or two of the ministers.

The other point that I would put on the public record in finishing my remarks is that I will be joining with my colleague the Hon. Andrew McLachlan to fight on behalf of the community to ensure that in the south Parklands the Dardanelles cenotaph memorial remains, because the intent was that that is where it would be, and that is where it should stay. There has not been proper consultation on that, from what I am advised, so I say to the government: at your peril, shift that without proper consultation with the South Australian community and, particularly, the families who have a direct relationship to that memorial.

The Hon. T.A. FRANKS: I rise to reflect on some of the debate today and, unlike the walk, it certainly has not been a straight line. I fear that we have had conflicting arguments presented to us in this chamber, particularly by members of the opposition, who do indeed have members on the Public Works Committee. I note and I thank the members of the Public Works Committee for their due diligence and support for this bill. I note that members of the opposition in the other place all overwhelmingly supported this bill. I have not heard anyone actually oppose this bill.

I have heard arguments that we need a hybrid bill referenced to a select committee and I have heard arguments that we do not need this bill at all. Whatever the arguments are, what I would say is I think the reason we are taking circles today is we are playing the man and not the ball. We are playing a political game with something that should have been something that is beyond politics. With those words, I look forward to the speedy passage of this bill.

The Hon. S.G. WADE: I disagree with the Hon. Tammy Franks. The fact is that a number of people in this parliament—and the Greens, often—express concern about the parliament being ignored. That was the concern being raised by me, the Hon. Andrew McLachlan and the Hon. Robert Brokenshire. In relation to the oversight of the Public Works Committee, I remind the Hon. Tammy Franks that the Public Works Committee comments on capital projects. It does not amend bills.

The Legislative Review Committee, on behalf of this parliament, oversees regulations and has special responsibilities. I am sure the Public Works Committee does not see it as its province to amend legislation. Very few capital works projects before the Public Works Committee require statutory change. This was an exception. This parliament had every right to be respected. The next

time the Greens want parliament not to be run roughshod over, I will reflect on the Hon. Tammy Franks' remarks.

Clause passed.

Remaining clauses (2 to 6), schedules and title passed.

Bill reported without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:46): 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 (resumed on motion).

Clause 103 passed.

Clause 104.

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

Amendment No 6 [Parnell–2]—

Page 84, after line 12—Insert:

(2a) If a person is to appear personally or by representative before the Commission to be heard in support of a representation made, the Commission must, at least 5 business days before the appearance, ensure that—

(a) a copy of the application and any accompanying documents; and

(b) a copy of any report prepared by or on behalf of the Commission in relation to the application,

are published on the SA planning portal and available for inspection and downloading without charge.

The luncheon break came at a very opportune time because I had a question on clause 103, but I answered it myself, so I have saved the council time by not having to ask it. Amendment No. 6 [Parnell-2] basically seeks to put into legislation the current practice of the Development Assessment Commission, and the practice is that, when somebody, having put in a written submission, is entitled to front the commission and have their say, then the commission has had the quite sensible practice of giving them at least five business days' notice and also making sure that any representors have a copy of the application, copies of any accompanying documents and also a copy of the expert planner's report on which the Development Assessment Commission will rely.

That has been the practice of the Development Assessment Commission. I think it is a good practice, so the purpose of this amendment, in inserting a new subclause (2a), is simply to reflect that practice. The alternative to inserting this is that maybe good practice will prevail even without this clause being in, but there is also the risk that slack practices could creep in. You might get a situation where someone gets a phone call saying, 'It's 2 o'clock tomorrow afternoon; that's it,' which does not give people time to prepare.

It could also transpire that not all the documentation is available. I hope I am wrong. I hope it will all be up on the portal—that is the whole purpose of it—but it just seems to me that this is a longstanding practice of the Development Assessment Commission to give notice and to make sure that the documents are available, and I think it is helpful to incorporate it into the legislation.

The Hon. K.J. MAHER: I might speak to what the clause does first, and then I will speak to the Hon. Mark Parnell's amendment to clause 104. Clause 104 talks about restricted development.

Restricted development is classified by the planning design code and will relate to types of development that are not envisaged for a zone or have impacts that are required through that assessment.

It is equivalent to noncomplying development, which currently requires an applicant to apply to a council for approval, at which point a council may refuse to consider the application and, indeed, the council may refuse the application at any point with no right of appeal. Should the council agree to proceed and approve the application, the Development Assessment Commission must concur with the council's decision, known as 'concurrence'.

We have made changes to streamline this process and provide greater certainty for applicants by removing the requirement for the dual assessment (the concurrence) by introducing new applicant rights, including for internal review of an early no by the commission and the right of appeal to the court against the decision to refuse after having gone through the full assessment process. Examples could include an application for a gin distillery or a microbrewery in a rural zone.

The commission is a relevant authority. The commission must have regard to the planning and design code, but is not bound by it because the reason it is restricted is that it was not envisaged at the time the code policy was drafted. Accordingly, it is subject to a more rigorous assessment which may bring to light information that will enable the commission to consider it. For example, breweries used to be like the West End Brewery at Thebarton but are now more likely to be microbreweries operating out of a large shed with far less impact on local water supply and other such things, but it is classified as the same land use and, therefore, deemed noncomplying at present.

The application is subject to public notification requirements and will be the same as category 3 under the Development Act, including neighbouring property owners, the public generally and newly, by notice, affixed land. This allows the planning system to be more responsive to changing markets and economic opportunities when they arise. The public has the right to make representations and to appeal in relation to restricted developments.

In relation to the [Parnell-2] 6 amendment, the government supports this amendment. I was getting there; just leaving him in suspense. The application and reports, etc., are already intended to be made available via the public notification and should be published. I would only add that this was likely to have been expressed later by regulation under clause 104(2)(a), in any case. However, the Hon. Mark Parnell's amendment effectively elevates it to the act rather than leaving it to regulation under that clause we are about to come to.

The Hon. D.W. RIDGWAY: I indicate the opposition will also be supporting the honourable member's amendment.

Amendment carried.

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

Amendment No 76 [Parnell-1]—

Page 84, lines 13 to 15—Delete subclause (3)

This amendment seeks to delete subclause (3), which provides:

The Commission may dispense with any requirement under subsection (2)(a) if the Commission considers that the giving of a notice envisaged by that subsection is unnecessary in the circumstances of the…case.

If you go back to (2)(a), that talks about notice to neighbours, notice to people of a prescribed class, notice to the general public, and comes back to the old star picket and sign on the land; so it is the full gamut—everyone must be told. 'The Moon and Mars Courier', no doubt there will be an ad in there as well.

The reason for telling everyone about it is that, as the minister has said before, it is restricted development. It was not envisaged by the planning rules, so it is something that is out of the ordinary. The logic of my amendment is that if it is something that is out of the ordinary, if it is something a needs a special level of assessment, it is difficult to see why the commission should be given the power to effectively say that no-one needs to be notified.

A major part of this assessment stream is that it does not fall within the rules; therefore, you have to tell people about it and it gets debated on its merits. To put this into context, the whole of this bill is about giving people the chance to comment on the rules and giving people less chance to comment on individual development applications. Having engaged the community at great length in the rules, here is something that does not fit the rules; therefore, why would you also dispense with notifying people about it? It is an internally illogical position.

I know that the minister will say that it would be rarely used, it would be for minor technical sort of matters, but really the commission has, I would say, an unfettered discretion because all the commission has to do is form the view that giving notice is unnecessary. There is no particular guidance as to what that might be. I know the minister will go back to clause 103 and say that the commission is going to prepare practice directions. It is certainly not clear from that clause that there will be practice directions about when public consultation will not be required. It seems to me that if something is seriously enough outside the planning rules, you do not want to be dispensing with public notification.

The other common-sense thing to say is this. Let's say it turned out to be something that was fairly minor and it was technically just outside the rules or whatever. You are not going to get floods of people lodging objections. It does not happen like that; that is not the experience. So, I think the safest thing is to say that with this form of development, this pathway, restricted development, do not give the commission the option of opting out of neighbour notification or opting out of public notification: leave it in as a mandatory provision. That requires the deletion of subclause (3).

The Hon. K.J. MAHER: The government will oppose the Hon. Mark Parnell's amendment on this clause. The commission should have the ability to dispense, in the rare circumstances that it might be reasonable, with the notification requirements for the restricted development. This provision provides for a level of flexibility that is sometimes required in relation to such proposals. For example, proposals may involve minor alterations and additions or ancillary building or works that might be required to ensure compliance with other legislative requirements. Some land uses may be subject to Environment Protection Authority licensing requirements that can over time be revised. There are often circumstances where, in order to meet such changed requirements, minor noncomplying work may be required, and it is appropriate to dispense with the needs to undertake notification for existing developments.

Another example is a roadhouse in a remote location, where shops are often treated as a noncomplying development. With very few people likely to be affected, it may not always be reasonable for a person to be required to install a sign on the land to meet clause 104(2)(a)(iv). This is a decision for an independent arm's length commission that will be trusted to use this power appropriately. As the Hon. Mark Parnell has already foreshadowed, I will reference clause 103, which sets out the requirements to be met in publishing practice directions for restricted developments.

The Hon. D.W. RIDGWAY: A bit of clarification: I may not 100 per cent be following where we are up to, although I know which amendment we are dealing with. When the minister just explained the reasons for the government not supporting the amendment, he talked about minor developments, minor alterations. Does that capture, under this part of the bill, the issues the Hon. Dennis Hood has raised with his minor alterations to his domestic property, namely, an ensuite? I did not think it did. Am I on the same wave length or not?

The Hon. K.J. MAHER: I am advised that it probably would not take into account the Hon. Dennis Hood's ensuite, as much as we like talking about it. Everybody supports Dennis's dunny—I think that is undisputed. That would be a performance assessed stream. This talks about minor noncomplying work. Some of the examples given might be minor noncomplying work that is required to meet EPA licence conditions or minor noncomplying work in a very remote roadhouse. They would probably be better examples than the Hon. Dennis Hood's ensuite.

The Hon. D.W. RIDGWAY: In that case the opposition is comfortable—

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: Gin distilleries. I was reading an email from parliamentary counsel earlier on when the minister mentioned distilleries and small breweries. Listening to the

explanation of the Hon. Mark Parnell, if something is outside the range that he described in the explanation of his amendment, the opposition feels at this point in time that it would be very happy to support the Hon. Mark Parnell's amendment.

The Hon. D.G.E. HOOD: The Hon. Mr Parnell will be pleased to hear that we will be too.

Amendment carried.

The Hon. M.C. PARNELL: My amendment No. 77 on file is consequential in that it relates to my issue of disclosing donations: we have dealt with that, so I will not be pursing it. I move:

Amendment No 7 [Parnell–2]—

Page 85, after line 4—Insert:

(8a) If an appeal is lodged against a decision on a development classified as restricted development, the Commission must ensure that notification of the lodgement of the appeal is published on the SA Planning portal.

This is a fairly straightforward notification provision. As the minister has explained, these are the types of developments that can be appealed, they can end up in court. I am proposing the insertion of a new paragraph (8a), which simply says:

If an appeal is lodged against a decision on a development classified as restricted development, the Commission must ensure that notification of the lodgement of the appeal is published on the SA Planning portal.

Really, it is out of an abundance of caution that the government is going to be putting application documents up and it is going to be putting a decision document up. If something is appealed, then I think they should put that up as well, just so that the public knows exactly what stage the development has reached.

They will know that it was applied for. They will know that it was approved, but what they will not know is whether anyone has challenged it. They will know if this amendment is inserted because it will be in addition to the portal, just the fact of an appeal having been lodged. It does not create any rights, it does not enable any people to appeal who would not have otherwise been appealing; it is simply a notification provision.

The Hon. K.J. MAHER: I thank the honourable member for his amendment. The concept of the appeal notification certainly has superficial reasonableness and appeal on the face of it, and the government is not completely opposed to the idea which you are putting forward. However, the government prefers that the amendment does not proceed at this time until there has been a conversation with the courts, as well as full consideration as to whether a failure in any notification system between the courts and the commission could give rise to a challenge.

The government will oppose the amendment, but it is happy to provide an undertaking that it will be flagged for consideration after we have looked at those issues that I just outlined, flagged for consideration in the regulations provided for under clause 47(2)(d), which could include this matter.

The Hon. M.C. PARNELL: I will just say that I accept the minister's position. I think the sensible course of action, as we have done in other clauses like this, is to support the amendment, and if the government makes the case that there are unintended consequences, we can take it out later.

The Hon. D.W. RIDGWAY: I indicate that the opposition will be opposing the Hon. Mark Parnell's amendment. I think the minister is saying that there may be some room to move, but the Liberal Party position is to oppose the amendment. We will not be supporting it today

Amendment negatived.

The Hon. M.C. PARNELL: I have a further question on this clause. One of the aspects of this assessment pathway of restricted development is what is colloquially known as the 'early no'. It is similar to what we have at present, when it is called 'noncomplying development', and it basically gives the decision-maker the ability to say no, with no comeback on the part of the developer, because they have pushed the envelope too far and it is clearly not going to fly.

A good example, and one I like to use, is the application for the abattoir in Burnside, the residential zone of Burnside. You would look at the planning scheme and you would think, 'Well, it is good for houses, but abattoirs are on the noncomplying list.' If someone wants to give it a run, lodge their application for the abattoir in Burnside, it makes sense for the decision-maker to be able to say no, and that is the end of it. I think that is a reasonable provision; it is replicated in the current bill.

What is interesting is—and I might stand corrected—that there is now a new provision that says that if the applicant (the would-be abattoir operator) is unhappy with that early no, then they can actually get that decision reviewed. I refer to subclause (15), which says:

A decision to refuse an application under subsection (14) without proceeding to make an assessment is, on application under this subsection by the applicant, subject to review by the Commission itself.

My question is: how is it envisaged that that would work? Obviously, you have a developer who is unhappy. Effectively, the developer is saying, 'You've said no to my project and you haven't even properly assessed it.' They go to the commission and say, 'I don't think that's right.' My question is: how is this review process going to work? Would other stakeholders be invited to come along and express their views to the commission about whether this early no is in fact unreasonably exercised?

The Hon. K.J. MAHER: I understand what the honourable member is asking. The answer is that you are not allowing anything to proceed; you are not giving the green light to any development. There is a full process that happens if you have the early no, rejected. I understand what is being asked but I think a full-blown consultation process about whether to go to another full-blown consultation might be overdoing it. I understand what you are saying but the answer is that this is not about allowing something to go ahead or a development to proceed, this is just about asking: can it go to the consultation; can we see if it will proceed or not?

Clause as amended passed.

Clause 105.

The Hon. M.C. PARNELL: This is where we proceed with great speed now because my amendments Nos 78, 79 and 80 all relate to the donations disclosure issue. They are all consequential so I will not be moving them.

Clause passed.

Clause 106 passed.

Clause 107.

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

Amendment No 8 [Parnell–2]—

Page 87, after line 18—Insert:

(ab) the expected effects of the development on the climate and any proposed measures designed to mitigate or address those effects;

Amendment No 9 [Parnell–2]—

Page 87, lines 25 to 27—Delete 'if the development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993,'

At one level this might be regarded as consequential but I think we just need to agitate it again. It is the issue of climate change and taking climate change into account in making decisions. Clause 107 is about Environmental Impact Statements (EISs). Subclause (4) is a list of the things that have to be taken into account subject to any practice directions. In other words, it is an indicative list of things that are going to be included in an EIS.

I want to add to that list the expected effects of the development on the climate and any proposed measures designed to mitigate or address those effects. The important thing to note is that, whilst we are adding that to the list, it is subject to any practice direction. If, for example, there was nothing whatsoever relevant to climate change about the development, if it had no bearing at all, then it would not need to be considered, but in most cases there is some element that needs to be considered. It may well be in relation to energy use, when you have developments on the coast

for example and you have issues of sea level rise. There will be many cases where climate change should be taken into account.

I note that the first thing that the EIS must include is the expected environmental, social and economic effects of the development. That is your classic EIS—that is what it is: economic, social and environmental effects. Adding climate change helps to reinforce the government's commitment, stated many times over, that climate change should be taken into account in the assessment of major decisions. Decisions on these types of projects, given that they are big enough to require an EIS, I think specifying climate change makes sense.

The Hon. K.J. MAHER: In relation to clause 107 generally (which I think will help with regard to this particular amendment), the provision largely replicates the existing environmental impact assessment process. It is almost a cut and paste from what there was previously to what there is now; it is a process that I think is well understood by the community and industry, and lawyers who have been involved in planning.

One change relates to the omission of the clause contained under section 48E of the Development Act which is purported to prevent judicial review of decisions made under this process. This was omitted because such clauses are typically read down by courts in any event. The impact assessed development, other than restricted development, can either be classified by the regulations or declared by the minister. The commission will determine the level of assessment in accordance with clause 106.

The EIS process stipulates consultation requirements with the EPA, councils and other relevant ministers and prescribed bodies. Copies of an EIS are to be made available for public inspection, and written submissions invited. The applicant must respond to submissions received. The minister, as the relevant authority, can make decisions and must prepare an assessment report which is published as required under the government's amendment No. 38, set 4.

In relation to the particular amendment to insert the reference to climate change, as the honourable member has pointed out there is already an environmental impact statement prepared by the proponent. Not all developments will necessarily have an impact on climate change, thus it should not be necessary to address the topic in all cases, as I think the honourable member's amendment would force to happen. It would duplicate requirements already imposed.

As the Hon. Mark Parnell pointed out, clause 107(4)(a) has a reference to the environmental effects of the development, and also clause 107(4)(b)(i). In light of the new requirement to have a state planning policy on climate change, which has been a previous big win in terms of amendments, given that new requirement I think it is largely redundant that every possible proposal, that may not have an impact on climate change, will require it, given that clause 107(4)(b)(i).

So the government opposes this amendment. It appears to be a bit of extra red tape, given what has gone before. I do appreciate that both these amendments would have been lodged before it was known whether the first one was going to pass, but given that one did pass we strongly feel that this one has been made somewhat redundant by the passage of the previous amendment.

The Hon. D.W. RIDGWAY: I thank the mover and the minister for their responses and also the Hon. Mr Parnell for his description when he moved it. I will talk to both amendments Nos 8 and 9 [Parnell-2] as the two that I think effectively—

An honourable member interjecting:

The Hon. D.W. RIDGWAY: It might give you some clarity if I tell you what I am going to do. I know that the minister thinks it has been superseded by the previous amendment, but we do not see any problem in supporting amendment No. 8 [Parnell-2]. We do not think there is any problem with having that new paragraph (ab) to the expected effects of development on climate and any proposed measures designed to mitigate against or address those effects. We do not have any problem with that, but we do have a problem with amendment No. 9 so I indicate that we will not be supporting his amendment No. 9, but we will be supporting his amendment No. 8.

The Hon. M.C. PARNELL: I thank the Hon. David Ridgway for his indication. I accept what the minister was saying; I am pretty sure I drafted this before I knew that we would have a state planning policy on climate change. Nevertheless, I think the Minister for Climate Change would be

delighted to see references to climate change in as many places as possible in the Development Act. I do accept that it will not be relevant in every case, but I make the point (as I think the Hon. David Ridgway has picked up) that it is subject to practice direction, so if it is not relevant it will not to be taken into account. However, I will briefly address amendment No. 9 of set 2, and I will invite the Hon. David Ridgway to just have another think about it.

The reason I have sought to modify paragraph (c) is that it says only for EPA licensable activities is it required for the EIS to take into account the objects of the Environment Protection Act, the general environmental duty under the Environment Protection Act or any environment protection policies under that act. The reason I think that is the wrong way to go is that those three things—the objects of the act, the general environmental duty and the environment protection policies—apply to the entire state and to every activity conducted in the state. They do not just apply to activities that need an EPA licence.

A classic example is, say, a wood processing factory or something like that. There are always thresholds that are written into the Environment Protection Act and, if you are over a certain size, you have to get an EPA licence. If you are below that size, even though you might be a potentially polluting industry, you still have to comply with environmental laws and policies and the general environmental duty, but you are not regarded as big enough to need a separate licence.

That is the structure under the Environment Protection Act. Everyone is bound to comply with these antipollution laws but only certain operations are obliged to have a licence. The way the government has worded this is that the only time the EIS has to deal specifically with the Environment Protection Act is if it is a licensable activity that is being proposed, yet often the activity might not be the perpetrator of the pollution: it might be the victim of the pollution.

The classic example of that is a major housing estate being built next to heavy industry does not require an EPA licence. If the application is for the big housing estate, it does not need an EPA licence. The heavy industry that it is close to might need an EPA licence. In other words, if it was reversed and someone came along and wanted to build heavy industry next to a residential area, yes, that would require an EPA licence and, yes, the EIS would have to have regard to the Environment Protection Act and its policies and its duties. So, really, it is actually a matter of logic that an act that applies to the entire state, and to all activities in the entire state, should not be simply read down narrowly as if it is only relevant to EPA licensable activities. That is the thrust of the amendment.

I take what the honourable minister has said before that it says 'environmental'. It is one of the first words and they do have to take environmental matters into account, but the Environment Protection Act has specific things such as the policies that relate to how water is to be managed. There are policies about burning and farmers, I guess—that is an environment protection policy. The question is: should that stuff be taken into account? I think it should.

I do not think there is anything particularly sneaky in it. It is basically saying that this set of state laws should be taken into account when writing EISs because they are laws that have to be complied with and they might as well be taken into account in the decision-making process.

The Hon. K.J. MAHER: In relation to amendments Nos 8 and 9, but referring specifically to amendment No. 9, that amendment provides that all proposals requiring environmental impact statements should include consideration of EPA impacts, not just for EPA licensable activities. It is argued that this is not justified and would represent additional workload for all proponents in preparing an EIS. By comparison to the status quo, the amendment would restrict the requirements to only those activities that have been prescribed as having environmental significance under the Environment Protection Act.

As to the example raised by the Hon. Mark Parnell on the houses and the heavy industry, I think he means—and he will nod one way or another if I am getting it right or wrong—that if a proponent wants to build a factory near a house, they need a licence from the EPA but, if someone wants to build houses near a factory, that does not require an EPA licence—which is true.

Housing adjacent to industrial zones is a matter for zoning to be addressed by the code. There are already existing zones that restrict or impose additional requirements on industrial

residential interfaces. While the Hon. Mark Parnell's statement is true in terms of how houses being built do not require an EPA licence, a proponent wanting to build houses in an appropriate area would need to apply to change the planning and design code in order to allow such residential use in an industrial zone.

This change to the code would be subject to the checks and balances set out in the bill in relation to alignment with the regional plan, community engagement under the charter, and ultimately our parliamentary disallowance. It is argued for amendment No. 9 this additional layer of red tape is not warranted and we will oppose amendment No. 9.

The Hon. M.C. PARNELL: So be it. I may have changed the Hon. David Ridgway's mind in relation to amendment No. 9? No, it does not appear that I have. So, a bird in the hand: I will take the Liberal support for amendment No. 8 and accept the result on amendment No. 9.

Amendment No. 8 carried; amendment No. 9 negatived.

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

Amendment No 38 [Emp–4]—

Page 89, after line 11—Insert:

and

(c) ensure that a copy of the Assessment Report is published on the SA planning portal.

This amendment is proposed in response to a matter raised in another place. Members there suggested the publication on the portal of the assessment report, which sets out the minister's assessment of the development, the minister's comments, the environmental impact statement, any submission responses to the submission and the like, and other matters the minister or the commission thinks fit.

Currently all environmental impact statements, DRs and PERs are uploaded onto the government website for the public consultation period and remain there, as well as being available for inspection and purchase; however, the proponent's response document and the minister's assessment report are not usually made available or uploaded until the day the decision is gazetted when they are published and uploaded together with the decision. The proposed amendment to clause 107(10) reflects the government's intent that we maintain this practice of making assessment reports available online via the SA Planning website.

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

Amendment carried.

The Hon. M.C. PARNELL: I wanted to make another comment about this clause before we pass it. The minister earlier on referred to the notorious section 48E. That is a section of the current Development Act and it is a section which basically says that no matter how unlawful—and I am paraphrasing—a decision is, no matter how appalling it might be, no-one is allowed to go to court and challenge any part of the process.

I think it was probably one of my very first amendments 10 years ago to try to get rid of section 48E. I think I have probably tried three or four times. My enthusiasm might have waned in recent years but I am sure that I have tried to get rid of it several times. I just wanted to put on the record my congratulations to the government for having finally got rid of section 48E. I know it is not necessarily because of my advocacy on the issue. My understanding is that the government is moving towards being able to have full decision-making power over commonwealth environmental decisions. This is a matter that has been raised in the past and my recollection of a couple of years ago is that the government was not interested in going down that path.

What we are talking about are things called 'approvals bilaterals' under the commonwealth Environment Protection and Biodiversity Conservation Act. It is this notion that, rather than have two separate processes where the commonwealth assesses a process and the state then assesses a process, and then you have two separate decisions, where I think the law is heading—and I do not support this—is not only will the two assessment processes be combined but the decision-making process will be combined. One of the reasons why South Australia would never have got approval

to be able to make these commonwealth decisions is because we have had this horrendous section 48E.

The Hon. K.J. Maher: So, do you want it brought back in?

The Hon. M.C. PARNELL: No, I don't want it back in. I have just congratulated you on taking it out; don't put it back in. I am just making the point that one decision that I think this parliament will possibly need to make is the extent to which we are happy for the commonwealth to handpass all their responsibility for things like nationally-listed endangered species or migratory birds or the protection of Ramsar wetlands, of which there are several in South Australia. We will have to decide to what extent we are prepared to let the commonwealth off the hook and have all these decisions made at the state level. I just flag that as a debate to come.

Clause as amended passed.

Clause 108 passed.

Clause 109.

The Hon. M.C. PARNELL: Amendment No. 81 [Parnell-1] is consequential, so I will not be moving it.

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

Amendment No 5 [Ridgway–4]—

Page 91, line 40—Delete subclause (10) and substitute:

(10) A decision of the Minister under this section is, on application under this subsection by the proponent, subject to review by the Commission.

(10a) An application under subsection (10) must be made in a manner and form determined by the Commission and must be made within 1 month after the applicant receives notice of the decision subject to review, unless the Commission, in its discretion, allows an extension of time.

(10b) On an application under subsection (10)—

(a) the Commission may adopt such procedures as the Commission thinks fit; and

(b) the Commission is not bound by the rules of evidence and may inform itself as it thinks fit.

(10c) The Commission may, on a review under subsection (10)—

(a) affirm the decision subject to review; or

(b) send the matter back to the Minister for reconsideration in accordance with any directions or recommendations that the Commission considers appropriate.

(10d) No appeal to the Court lies against—

(a) a decision of the Minister under this section; or

(b) a decision of the Commission under subsection (10c).

This is quite a large amendment which deletes subclause (10) and substitutes a new subclause. We have been trying to do this in a number of our amendments, that is, to remove the minister from some of the decision-making and give the commission more power. As members have heard me say in the debate at various times, our desire is to have a very independent planning commission, and we think this amendment goes a long way towards having a more independent planning commission.

I expect the government will not agree with us on this particular issue, but certainly the opposition, as I have said a number of times, has been striving to have a commission that is more independent and less able to be influenced politically, which would effectively take some of the politics out of planning. The government has wanted us to support their view of not having any of local government involved in the development assessment panel, saying we have to take the politics out of planning. We want to do the same by trying to take the minister further out of the process. I urge all members to support this amendment to give us some chance of having a more independent planning commission.

The Hon. K.J. MAHER: I rise to indicate that the government will oppose the Hon. Mr Ridgway's amendment as it would provide a proponent with a right of appeal to the commission against a decision of the minister in relation to an impact-assessed development. The provision as drafted reflects the current major development provisions in the Development Act. The decisions of the minister to refuse or approve a development under these provisions can only be made after the requirements of an environmental impact statement, set out in clause 106, have been met.

The decision-making power is appropriately set at the ministerial level. This is not to say, however, that the commission does not have a strong role in the process. The commission's role in this bill is analogous to that of the Development Assessment Commission in the EISs under the Development Act. The bill sets out the level of detail required in the EIS, and the commission is responsible for preparing the practice directions setting out how the EIS must be prepared by the proponent. The commission also prepares the assessment and report under clause 107(9).

This amendment would allow a proponent a right of appeal and provide the commission with the power to direct or recommend how the minister should reassess a proposal. The government cannot support an amendment that would effectively provide a power of veto to the commission over an elected representative of this parliament. This amendment is not consistent with the status quo. It goes a lot further, and the government opposes it.

The Hon. M.C. PARNELL: I acknowledge the Hon. David Ridgway's ambitions with this clause. Not even I thought that we might get an appeal mechanism in there. The one thing that is standing between the Greens and supporting this proposal is that the Liberal amendment limits this review power to the proponents. If the review power was extended to the third-party objectives, for example, or those who put in submissions, then we may well be on the same page. He has had a good go, I think.

The way that it would work, as I see it, is that the minister basically says no. To be honest, it is more likely that the minister attaches some condition that the proponent does not agree with. In other words, it might get a yes, it might get approval, but there might be a condition that is in dispute. The way this Liberal amendment would work is that the proponent would go back to the commission and say, 'Look, we think the minister's got this terribly wrong here.'

The commission could then say one of two things. They can say, 'No, you're wrong, the minister's completely right. The minister acted on our advice, the minister hasn't made any mistake at all. Go away,' or, the planning commission could say to the minister, 'Look, can you have a look at this again? We think that the proponent has a point here. You haven't quite got this right,' and it would be sent back to the minister for reconsideration.

Of course you could end up with a circular position, where you just had review upon review upon review, because there is no circuit-breaker because there is no appeal to the court. You could keep going backwards and forwards between the aggrieved proponent and the commission, just leaning on them to try to get the minister to make a different decision on the conditions.

We cannot support it as it is, but we are more than happy to work with the honourable member. If he was interested in providing an avenue for third parties to also be able to challenge decisions that were made by the minister, then I think we could talk turkey and I think we might be able to come up with something. A one-sided review process where it is only a developer who gets to revisit the decision, we cannot accept that.

The Hon. D.G.E. HOOD: The Hon. Mr Parnell has highlighted succinctly why Family First cannot support the amendment either; that is, my understanding of this process is that it could create a circular for never-ending review of the minister reviewing the commission reviewing the minister, etc. In the Westminster system the minister should have the final say.

Amendment negatived.

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

Amendment No 39 [Emp-4]—

Page 92, line 9—Delete '$250,000' and substitute '$120,000'

The amendment to clause 109 achieves greater consistency of penalty levels and reflects concerns raised by industry. In drafting the new bill, the opportunity was taken to review the penalties which were last revised in 2007. The penalty levels in these provisions, when compared with the Development Act, align with recommendation 15.3 of the Expert Panel on Planning Reform; that is, the enforcement of sanctions for noncompliance with planning rules and guidelines is crucial to the integrity of the system.

Penalties need to match the scale and nature of breaches. They should deter noncompliant behaviour but should not impose disproportionate burdens. Where it has been necessary to ensure deterrents for serious offences are maintained, the government deemed it appropriate for penalties to be increased. As all offences of the new bill are classified as summary offences heard within the criminal jurisdiction of the ERD Court, the limit for maximum penalty is proposed to be $120,000, consistent with the general limit for summary offences under the Summary Procedures Act 1921.

Accordingly, the government is determined to amend the maximum penalty provision under clause 109(11) down from $250,000 to $120,000 for those reasons. The offences under this provision are set out in subclause (11) and address undertaking the development without consent of the minister contrary to development authorisation or contravening or failing to comply with the condition on which the development authorisation was granted. These are all serious offences, which are reflected in the maximum penalty of $120,000. An example could include a factory failing to put in pollution control measures in line with a condition of approval.

The Hon. M.C. PARNELL: I have just a few questions in relation to this. The minister mentioned that it is the Environment, Resources and Development Court that will determine penalties if someone is charged with one of these offences. Can the minister confirm what is the maximum criminal jurisdiction of the ERD Court, because my recollection is that it is much higher than $120,000? I know that under the Environment Protection Act we have million dollar fines. I do not think the ERD Court can necessarily do the biggest fines, but could the minister tell us what is the maximum monetary penalty that that court is allowed to impose?

The Hon. K.J. MAHER: I will get that information in a moment, but the important part is the maximum penalty that a summary offence can be, which I outlined in my answer. Even if it was a lot higher, if it is higher than the maximum summary offences limit, it would not matter. For the sake of completeness, if you still want the answer, I think I have it. I am able to advise the honourable member that we do not have that information, but still it would be limited. The fact that we have reached the maximum summary offences limit of $120,000, it might be a bit of a moot point if you could go even higher; for the consistency of a summary offence we have maxed out at that. Even if the ERD Court criminal jurisdiction could go higher, it would no longer be taken into the realms of the summary offence, which it is intended.

The Hon. M.C. PARNELL: I am not proposing to oppose the amendment on that basis. I expect the minister is quite right, that there are limits to summary jurisdiction. It reminds me of a cartoon I used to have on my wall, depicting a little kid with a rubber ring, having just come out of the water, and it has all this goop dripping off it. He is standing in front of the chairman of the board and he says, 'Who put all that gunk in the water?' and the chairman of the board says, 'We pay the fine, kids, okay?' In other words, paying the fine is cheaper often than doing the work that you should have done to prevent the pollution.

I only use that example because the minister said that a breach that might attract prosecution might be, for example, under subclause (11)(c), someone who fails to comply with a condition. A condition might be to put on the pollution control device; if they do not put on the pollution control device they can be fined, under this amendment, $120,000. If the pollution control device costs $20 million, then this is a bargain.

My question is: is this potentially a daily fee for breach? Often you have in legislation a provision which says that for every day that a condition remains unfulfilled, or for every day that you are in breach, there are additional penalties. Is this a one-off or potentially could it be imposed on a regular basis for a continuing failure to comply with a condition of an approval?

The Hon. K.J. MAHER: We will have an answer to that shortly, but in relation to your previous question I can now advise that, for a minor indictable offence in the ERD Court, the

maximum fine the court can impose is $300,000. That is for a minor indictable offence and not a summary offence, which we are talking about here and which under the Summary Procedures Act is limited to $120,000.

I note the example the honourable member gave about the economies of copping a fine in relation to the economic profit you get, but if it was a $20 million prevention measure it is probably not going to matter whether it is $120,000, $250,000, $500,000 or $1 million if that cartoon was to be a real case. I am advised that clause 3(6) defines a default penalty that can be applied to every continuing day of the offence; clause 3(6) in the definitions, Default penalty.

The Hon. M.C. PARNELL: Thank you for that answer, minister, because I was not aware of that. The default penalty here is $1,000, so basically you could keep pinging these people for $1,000 for every day that they are in breach.

The Hon. K.J. Maher interjecting:

The Hon. M.C. PARNELL: No, if the judge threw the book at them, the maximum penalty is $120,000, and if they have not fixed it straightaway I would have thought there was a penalty of $1,000 a day. I take the point that there is an incentive there, obviously, in getting yourself compliant. I feel that the penalty is still a bit light, because it is not just about failing to comply with the condition. You have someone who actually goes ahead and builds whatever it is without getting any approval at all—it includes that—or they build something different to what was approved.

I will not pursue it because, if in that situation someone does build something other than what was approved, then there are other mechanisms in this act to make them knock it down or bring it into compliance. I do not need to pursue this anymore, but I thank the minister for his answer in relation to the daily default penalty of up to $1,000.

The Hon. D.G.E. HOOD: Very quickly, I think the arguments that have been put forward are quite sound, but I think the other thing that should be added is that there is of course substantial reputational damage to an organisation that would be seen to be flagrantly breaching rules, which I think, in the case particularly of large organisations, they would be very concerned about. That is something that would have an impact on them, as well as any financial penalty.

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

Amendment carried; clause as amended passed.

Clauses 110 and 111 passed.

Clause 112.

The Hon. D.W. RIDGWAY: I have three amendments. I suspect that I could probably move them all at once because they all relate to the same issue, that is, the adaptive re-use that we had some success with some amendments towards the end of last year, when we were debating this bill. My understanding is that they are almost the same as the government's amendments. I assume that we do still have the government's support, so I will not delay the chamber any longer.

The Hon. K.J. MAHER: All the amendments to clause 112? I think there are six.

The Hon. D.W. RIDGWAY: I move all the amendments standing in my name that relate to adaptive re-use:

Amendment No 3 [Ridgway–2]—

Page 93, line 21—After 'Building Code' insert 'or a Ministerial building standard'

Amendment No 4 [Ridgway–2]—

Page 93, line 23—After 'Building Code' insert 'or a Ministerial building standard'

Amendment No 5 [Ridgway–2]—

Page 93, line 33—After 'Building Code' insert 'or a Ministerial building standard (as the case maybe)'

Amendment No 6 [Ridgway–2]—

Page 94, line 4—After 'Building Code' insert 'or a Ministerial building standard'

Amendment No 7 [Ridgway–2]—

Page 94, line 7—After 'Building Code' insert 'or a Ministerial building standard'

Amendment No 8 [Ridgway–2]—

Page 94, line 22—After 'Building Code' insert 'or a Ministerial building standard'

They relate to adaptive re-use, which of course the government supported before the end of last year, and I think other members were also happy to support it, so I urge all members to continue that support.

The Hon. K.J. MAHER: I indicate that we undertake to support the three amendments and will, in fact, double down and support all six amendments.

Amendments carried; clause as amended passed.

Clause 113.

The CHAIR: The next amendments are amendments Nos 82 and 83 [Parnell-1].

The Hon. M.C. PARNELL: They are consequential, so I will not be moving them. I move:

Amendment No 84 [Parnell–1]—

Page 96, lines 13 to 20—Delete subclauses (7) and (8)

Amendment No 85 [Parnell–1]—

Page 96, after line 20—Insert:

(8a) An application that provides for—

(a) the construction of a dwelling (including the enlargement or extension of a dwelling); or

(b) the construction of a swimming pool,

within 10 metres of a regulated tree will be taken to include a component that provides for an activity that constitutes a tree-damaging activity and must therefore be accompanied by, or incorporate, an application for a development authorisation in relation to such an activity.

(8b) Subsections (7) and (8) do not apply in relation to determining—

(a) the species of a tree; or

(b) the circumference of a tree; or

(c) the distance of a tree from a building or swimming pool (including after taking into account any proposed development); or

(d) whether special circumstances apply under either subsection on account of any criteria prescribed by the regulations for the purposes of this paragraph.

These amendments relate to the significant tree issue. I will speak to both amendments, but I will speak in relation to amendment No. 85 first. This is the situation that we have discussed here in the past, that is, how the 10-metre rule works. Most members would appreciate that if there is a tree within 10 metres of a house or a swimming pool or whatever, you do not have to go through the approval process for tree-damaging activity and you do not have to get approval. There are some

exemptions; there are some types of trees where you still do but, generally, trees within 10 metres, you can just get rid of them.

I have raised this issue several times, including most recently in a briefing with ministerial staff, but I am not satisfied that the answer they provided me is quite good enough. The difficulty always is not when someone is applying to remove a tree because it is 10 metres but when someone is applying to build something closer than 10 metres and then using that opportunity to knock down the tree. In other words, you apply for permission, you build your rumpus room or swimming pool and then you say, 'Oh, my goodness, there's now a tree within 10 metres of my new addition. I can chop that down.'

The government has made the point that what people should do when they are preparing their plans and sending them is that they should locate where any of these significant trees are. That would probably work in many cases, but I do not think it would work if the tree were actually on the next-door neighbour's property. If it was a next-door neighbour's significant tree and you were building a swimming pool on your property, I bet you that people are not lodging applications, joint applications, for a tree-damaging activity and for their swimming pool, for example.

It might be that the neighbour who has that significant tree has been wanting to chop it down for years but never had an excuse; now they have an excuse—the neighbour has built a swimming pool up to the fence and all of a sudden they have a legal excuse to get rid of the significant tree. My amendment No. 85 deals with that. It says that if you do try to extend a dwelling or build a swimming pool within 10 metres of a tree, you have to apply for both the building work and the tree-damaging activity. That is the first part of amendment No. 85.

The second part is in relation to arborists' reports because I am deleting the prohibition, if you like, or the restriction on requiring arborists' reports. I do not think you need an arborist's report for certain decisions, but in terms of the health of the tree, its vigour, whether it is about to fall down or die or is diseased, then I think you do. These are two issues I have agitated before—removing the restriction on arborists' reports and making sure that buildings that are built close to trees take those trees into account.

The Hon. K.J. MAHER: The Hon. Mark Parnell's amendments Nos 84 and 85 are opposed by the government. They seek to undermine the revised tree controls introduced in 2011. Mr Parnell's amendment No. 84 seeks to delete subclauses (1), (13), (7) and (8). If these amendments were successful they would newly require that an arborist report is required in relation to applications to remove regulated trees. This was a key change made to the tree controls in 2011, introduced by the Hon. Dennis Hood, because the requirement added considerable pointless cost to applications.

A common complaint leading up to the changes was that an applicant would be forced to pay for an arborist report supporting their tree removal application. The council would then commission their own arborist report, which was often the polar opposite to the application's arborist report; that is, it would argue for the tree's retention. This was an unworkable, costly and unhelpful process that was remedied by the 2011 changes, which provided that arborist reports were required only in special circumstances.

For these reasons, and for the reasons referred to in the Hon. Mr Parnell's amendment No. 3, which the government regarded as a test clause on regulated trees, the government opposes this and the next amendment, Parnell No. 85. The government is hopeful that the opposition will support its position on these amendments, and I understand, following briefings, that we will provide explanations of the impact of these and earlier amendments passed in regard to clause 3. We understand the development sector has also separately expressed concerns on the topic.

Whilst I appreciate the deeply held views of the Hon. Mark Parnell on these issues, these were matters that have been agitated, have been put on the record before, and have been decided before. We think the changes that were made in 2011 were significantly superior changes, and this will depart from that and take us way back.

The Hon. D.W. RIDGWAY: The opposition will not be supporting the Hon. Mr Parnell's amendments. I recall the debate when the Hon. Paul Holloway was minister (this was in the 2011 debate); obviously he was not the greatest maths student because he kept blaming the Liberal opposition for holding up the amendments on significant trees, but at that time I think we had only

seven members in the Legislative Council. He needed only a handful of others to get those amendments through, and I am not quite sure why it took him so long to realise that.

Once the Hon. Dennis Hood and Family First managed to find some good interest in that issue then the government had the numbers and those changes were made. We supported those changes in the end and we understand that, if you like, we have a set of rules and regulations around significant trees. We are happy with them the way they are and we do not see any need to vary from that. That is the reason we will not be supporting the Hon. Mark Parnell's amendments.

The Hon. D.G.E. HOOD: For the record, I appreciate the very different views in the chamber. It looks like these amendments will be defeated, which is in accordance with the wishes of Family First as well; we would certainly be opposed to the amendments. Fundamentally, it comes down to a philosophical position. Our view is that on someone's own, private, residential block of land, if there is a tree they want to remove they should be able to do it without asking anybody.

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

Amendments negatived; clause passed.

Clause 114.

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

Amendment No 40 [Emp–4]—

Page 97, after line 24—Insert:

(3a) However, if—

(a) there has been a material change to one or more elements of the development; or

(b) a new or additional matter requires assessment (subject to any variations allowed by a practice direction),

then—

(c) further notification and consultation may be required in accordance with any provision made by a practice direction; and

(d) subsection (3) will not apply to the extent that a new assessment must be made in the circumstances.

This amendment responds to a query in the other place and comments from the Local Government Association regarding how outline consent is intended to work, with particular regard to public consultation on variations from initial application and consent. The government agreed that this provision would benefit from some further attention and has therefore drafted a proposed amendment to require that if the development which is the subject of the outline consent changes materially, then further notification and consultation may be required, but this will be governed by a practice direction.

The question of whether or not a variation requires assessment will also be subject to a practice direction. This is so that the commission can provide assistance in determining whether or not a matter constitutes a substantial change which would warrant further notification and consultation beyond that originally carried out.

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

Amendment carried; clause as amended passed.

Clause 115.

The Hon. A.L. McLACHLAN: I have some queries by way of clarification. Some of these issues came up in the briefing but we did not fully thrash it out. I am interested in the workings of the design review panel which is being envisaged. I may be one clause early because it might be under clause 116, so I will take guidance from the minister. I am interested in how design review panels will work, in what circumstances they are envisaged, and their constitution and selection.

The Hon. K.J. MAHER: The next two clauses do deal with it but I think it is easily dealt with under clause 115. The clause formalises and embeds at the statutory level the approach which the government has adopted to assist proponents for significant developments in achieving good design outcomes. It is not about slowing down the development but, rather, about making sure it is the best it can be in terms of matters such as adaptive reuse and universal design.

It will ensure the government's design review process has a permanent place in the state's planning system and the process to ensure that the complex developments that will leave their mark on our city have many minds on the case as they are going through their own pre-application concept development process. Coupled with case management industries being highly complementary, this process ensures that, by the time they get to assessment discussion, their proposal will be well considered and more likely to enjoy a smooth passage. Some members of the local government sector have also indicated an interest in this process, which may become available to them over time.

In relation to the operation and constitution of the design panels, which the honourable member specifically asked about, the design review panels are required to be dynamic and responsive to the type of development that is under consideration. Selection is not a political but an administrative matter. The department currently runs a robust process calling for expressions of interest from suitably qualified professionals.

The department runs an open and transparent process, advertised with selection criteria to ensure suitable applicants qualified in architecture, urban design and landscape architecture, with some other specialists available from time to time in specific fields. They must be highly regarded in the industry and good communicators. Applicants are short-listed by an independent panel. A very high calibre of people will be on the panel, including the New South Wales Government Architect and the former president of the Royal Australian Institute of Architects. All new panel members go through an induction process, as well.

The Hon. A.L. McLACHLAN: I am not coming from a tactic of delaying. I am just trying to understand the amount of aesthetic and artistic input into a development, so the minister should not see this as a criticism of this particular section: so he can relax. I take it that, given the minister's answer, there is already a panel envisaged, that is, members of the panel, or are we going to seek expressions of interest?

The Hon. K.J. MAHER: These panels already exist under the present regime and there are well-tested processes in place for the selection of these panels under the current regime.

The Hon. A.L. McLACHLAN: So it is envisaged—and, again, this is not by way of criticism—that the current members of those panels are likely to be rolled over? I am not asking for a commitment, but is it anticipated that they will continue in their current roles?

The Hon. K.J. MAHER: That will be a matter for implementation. At this stage we cannot say whether current members—all, some or none—will be rolled over. That will be a matter for implementation with the new regime.

The Hon. A.L. McLACHLAN: I am grappling with the circumstances where this would be applicable. Again, this is not challenging the government because I personally believe it is important that this sort of input is involved in development. The sort of development that the government is envisaging under these sections would require this sort of referral and how the input would be applied. For example, is it saying that you need a classical façade because you are in a particular heritage area? Is it saying it can be post-modern because you are in a particular area? Is it looking for consistency in urban planning or is it taking another aesthetic or artistic emphasis?

The Hon. K.J. MAHER: I thank the honourable member for his questions and the constructive manner in the way he is going about it. It makes a welcome change from the savaging he has given me for the other bill today in question time. My advice is as outlined at the start, this is for significant developments. I am not going to be able to give an example of the particular style of architecture or precise design concepts that it might envisage, but what I can say is that there are people who have come to the government to ask to use these principles, whether it is industry or council. A good example of where councils come to ask government is the City of Adelaide because,

for any development over $10 million, it has asked for this process to apply to make sure those design outcomes are achieved.

Clause passed.

Clause 116.

The Hon. M.C. PARNELL: Before I move my amendment, I have a number of questions on this clause for the minister. Let me say at the outset that this clause replicates to a large extent equivalent provisions in the Development Act and at its heart is this idea that planning authorities are not the font of all wisdom and that there are other government agencies that have expertise that need to be consulted. You only have to think, for example, of someone who wants to build a major shopping centre on a major arterial road. It makes sense to go to the transport department—or the Commissioner of Highways to be technical—and check whether a slip road is needed or whether traffic lights are needed. It makes sense.

The current list of bodies that have to be consulted is in schedule 8 of the development regulations. My first question is: is the government intending to lift schedule 8 and to merge that in with the current system? Are they proposing that the same agencies that are currently consulted will be consulted under this new regime?

The Hon. K.J. MAHER: My advice is that like many of these things that would be a matter for implementation but schedule 8 would form the basis for that and, if it is helpful for the direction of further questions, the government will be supporting the amendment.

The Hon. M.C. PARNELL: Because it is a common-sense amendment, and I would not have expected anything less, I am keen to explore just a little bit.

The Hon. R.I. Lucas: Some of your others aren't common-sense amendments?

The Hon. K.J. Maher: As opposed to the other amendments you have had today.

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Mr Parnell has the call.

The Hon. M.C. PARNELL: I accept the minister's answer that the list has not been written. Part of my nervousness around this is that, in the past, when I have urged the government to add a new department, for example, to the list of bodies to which development applications are referred, I have been howled down by people saying, 'That is just more red tape.'

A classic example would be a development that has a major impact on the flow of water. You would have thought that the people responsible for managing water, like the natural resources board, would be consulted. No, they are not because what to one person is a sensible additional vehicle for information is to someone else extra red tape, so I just put that as an observation.

Another thing I would like the minister to put something on the record about if he could relates to the nature of input that will be sought from these referral agencies. At present, with all these bodies, if we take the EPA, for example, when a development application gets referred to the EPA, it falls into one of two categories: either the EPA has a right of veto—in other words, they can give directions and they can actually force the outcome—or the EPA can simply give advice which the decision-maker can take or leave. The word in the current system is 'direction' or 'advice'.

My understanding from my briefing with departmental officers is that the idea of going to a referral agency for advice is likely to come to an end, and the only time that matters will be referred to these other government departments—whether it is the health department, transport, EPA or coast protection—is to give these bodies a right of veto or a right of direction; is that correct?

The Hon. K.J. MAHER: There was a fair bit of commentary in the question, and I am happy to drill down a bit more if this does not completely answer the Hon. Mark Parnell's question. This clause, as has been stated, replicates the existing administrative processes—and I think they are found in section 37 of the act and the schedule that the Hon. Mark Parnell has referred to—to ensure that agency input is obtained as appropriate.

The aim would be that agencies develop and clearly delineate policies in the code so that only those proposals which are outside of agreed policy settings require referrals. Referrals are

currently, as the Hon. Mark Parnell has said, in schedule 8 of the regulations, which would be reviewed in developing the code and the regulations as we go forward and implement the scheme.

The Hon. M.C. PARNELL: The answer I got from that is that you are hoping that the matters will be addressed in the code and there will be less need to go to individual agencies for individual input. The second part of it was that at present these applications are sent to agencies for advice or direction. Is it correct that they will no longer be sent for advice and that the only time you would bother going to the highways department is for them to tell you what to do, to attach conditions to an approval or tell you to refuse an application?

The Hon. K.J. MAHER: If the policies are set up-front, you will not need to go for advice if it is complying with those policies. It is only if it is outside those policies that you will need to.

The Hon. M.C. PARNELL: I think the answer is yes. You are not going to be sending things to agencies for advice. One provision in here which struck me as odd, and I am not sure whether it is consistent with other aspects of the bill, is the idea when the EPA, for example, says 'refuse'. It goes to the EPA, and the EPA says, 'If you approve this factory, we are not going to license it, so don't approve it.' That is currently how it works.

It says in subclause (6) that, if the regulations so provide, there will be no appeal against a refusal that has been ordered by an agency, and the rest of the clause goes on to say that if it does end up in court the EPA has to front up and defend their decision to refuse. My question is: how does this provision saying that the regulations can deny appeal rights sit with other parts of this bill which say that applicants very often do have appeal rights? Will this subclause (6)(b) be used to deny appeal rights that would otherwise exist?

The Hon. K.J. MAHER: It does not do anything more or less than what already exists. It is an existing provision being put into the new act.

The Hon. M.C. PARNELL: I will accept that is the case. I was not sure whether it was in the current system. It just seems odd that you have provisions all through this bill which basically say that if an applicant is unhappy they can go to court and challenge it. What this is saying is that if the reason the applicant is unhappy is that if a third party, like the EPA, is unhappy and the regulations so provide that will be beyond appeal; you will not be able to challenge that. I did not think that was within the current provision, but if it is I will accept the answer.

The Hon. K.J. MAHER: I am advised that it is straight from section 37(5)(b) of the current act.

The Hon. M.C. PARNELL: At the risk of infuriating the minister any further, I move:

Amendment No 10 [Parnell–2]—

Page 99, after line 36—Insert:

(12) A relevant authority must ensure that a response from a prescribed body under this section is published on the SA planning portal and available for inspection and downloading without charge as soon as is reasonably practicable after the response is received by the relevant authority.

The minister has said he is going to support this amendment. It is a simple amendment which simply says that when one of these prescribed bodies—for example, the EPA, the health department, the Coast Protection Board, whoever it might be—puts in their report, that report should also be published on the portal and be available for people to look at and download without charge.

The Hon. K.J. MAHER: I indicated earlier when the Hon. Mark Parnell started—and it is now with more reluctance—that the government will support this amendment.

Amendment carried; clause as amended passed.

Clause 117 passed.

Clause 118.

The Hon. M.C. PARNELL: I have two questions. Is this a direct copy of what we currently have, which is about bikie fortresses? The second question is: how often has this provision been used to demolish bikie fortresses?

The Hon. K.J. MAHER: I am advised that this is a direct carryover from the act. How often? Not often.

The Hon. M.C. PARNELL: I might just tease that out. Is 'not often' a euphemism for 'it has not yet been used'?

The Hon. K.J. MAHER: I do not want to inadvertently not give an answer that is as correct as it can be. It has not been used often. The advisers we have here are not aware of its use, but I do not want to completely rule out the possibility that it has and that we are not aware.

The Hon. M.C. PARNELL: I will give the minister a better answer than the one he gave. It may have had a chilling effect, in that people who might have been inclined to build bikie fortresses have no longer done so because of this provision and therefore there has not been a need for them to be demolished. I will offer that. That is all I have on this clause.

Clause passed.

Clause 119.

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

Amendment No 87 [Parnell-1]—

Page 101, lines 34 to 41, page 102, lines 1 to 19—Delete subclauses (2) to (7)

This provision is a new one, and I think that it is a provision that could result in mischief. What the government is trying to do here is hold a bit of a stick to relevant authorities to make them comply with time frames for the making of decisions.

The Hon. D.W. Ridgway: Hear, hear!

The Hon. M.C. PARNELL: The Hon. David Ridgway interjects, 'Hear, hear.' I think, yes, we do want decision-makers not to drag their feet. I will not raise the Hon. Dennis Hood's ensuite; it would be a hat trick. Yes, we want decision-makers not to drag their feet: we want them to make timely decisions. The question then arises that, if the decision is not made within the requisite time frame, what should be the response? There are a couple of ways we can go.

One way to look at it would be to say, 'Look, if they haven't made a response within the required time frame, let's just assume that's a refusal and let the developer take the matter to court or whatever.' That would be a deemed refusal. That is how it works, for example, when we lodge our freedom of information applications with government agencies. They rarely respond within the time frame.

If we are particularly bolshie, I do not know about other members but I immediately lodge an internal review saying, 'Deemed refusal, they haven't met the time frame,' and then the internal review is usually late as well, so we go straight to the Ombudsman. In fact, I have taken a number of matters to the Ombudsman on a double deemed refusal without ever having had a response from the agency. That is the way we deal with those things. What the government is proposing here is different.

If we look at this provision, though, it takes the opposite approach. It basically says that, if a decision-maker takes too long and does not meet the time frames, it is a deemed approval, an automatic yes. The clause goes on to explain that the ball is then back in the court of the council, for example, and they have a limited amount of time either quickly to give an approval, to regularise it, or to end up taking the matter to court.

I think that is the wrong approach. When a decision-maker has messed up, if you like, if they have taken too long, the answer should not be an automatic yes. The answer should be an automatic no, with the aggrieved party having a chance to go to the umpire and sort it out. What do we say? Silence does not equal consent. I think I would have heard those words a few times in a place like

this: silence does not equal consent. If a council is taking its time, that does not mean that it is an automatic approval. It makes sense for it to be an automatic rejection.

The purpose of my amendment is to remove from clause 119 subclauses (2) through to (7), and they are the provisions that relate to an automatic yes. What I have kept in, as we do need it, is a dispute resolution mechanism because it is unacceptable for a councillor or anyone else just to drag their feet, not make a decision, and have limbo. You have to have a mechanism to resolve the matter, so I have left in that provision, subclauses (8) and (9).

The purpose of this amendment is simply to enable people to challenge a council or any other decision-maker (except the minister—I think he is immune from this), the planning commission, a local council or a regional board. If they drag their feet then, yes, we need a dispute resolution mechanism, but it should not be accompanied by an automatic yes because the result could be that a very inappropriate development gets approved.

If the planning commission has been so incompetent as not to deal with it in the appropriate time frame, the chances are that they will miss all these other deadlines as well—the 10-day deadline and a few others—and that something that is entirely inappropriate could get approved without anyone actually having properly assessed it, and I think that would be a bad outcome. Once you have given out these approvals you cannot take them back. There is no mechanism for revoking a development approval. My amendment basically says yes to a dispute resolution mechanism, but no to having automatic approval just because the decision-maker has taken too long.

The Hon. K.J. MAHER: The government opposes the amendment. Clause 119 introduces the concept of deemed consent, which is strongly supported by industry with multiple reports as to the problem with the current approach which requires applicants to go to court if a relevant authority fails to determine an application within the statutory time frame. Such provisions operate well in Queensland and Tasmanian planning systems and, indeed, in other areas of law—including South Australia's fisheries law, for example.

This is a key reform to the development system. Introducing stricter time frames in which decisions must be made will help ensure that decisions on applications are not unduly delayed. It will introduce a high degree of certainty into the planning assessment process, and will place the onus on the assessing body to make decisions within expected time frames, as it should be. Where those time frames are not met, the development is deemed to have been granted for planning consent. The onus of any appeal seeking the quashing of that consent then lies with the assessing body who, after all, is the one who has not met the time frames; not the applicant, as is currently the case.

The amendment proposed by the Hon. Mark Parnell would maintain the requirement that it is the applicant who, through no fault of their own, must then apply for the court order requiring the relevant authority to make its determination within a time fixed by the court. This situation has proven to be unworkable and unjust. Relevant authorities must be accountable for adhering to prescribed time frames within which decisions must be made. The government believes the concept of 'deemed consent' is a very important part of these planning reforms, and of the proposed planning system.

The Hon. D.W. RIDGWAY: I indicate the opposition will not be supporting the Hon. Mark Parnell's amendment. The concept of 'deemed consent' is something that we have been attracted to for some time, and we are pleased that the government has it as part of this package of reforms. As the minister said, industry has been wanting for some time to have a little more certainty, and it is employed in other states and other jurisdictions, and it seems to work particularly well. So, apologies to the Hon. Mark Parnell, but we will not be supporting him this evening.

The Hon. M.C. PARNELL: I accept what the minister says, that it is like a parent wanting to impose consequences on a naughty child. The difficulty I have with this approach, though, is that normally when you do that the punishment or the disadvantage is borne by the child. In this situation the disadvantage is potentially borne by the community when an inappropriate development sneaks through without any conditions being attached, because that is the other thing we are looking at: normally, a relevant authority is not just about yes or no, it is about the conditions that are attached.

You could end up with something which is 'deemed approval' with no conditions, which might turn out to be very inappropriate. Whilst we might all wag our finger at the naughty planning commission or the naughty council that has not dealt with it properly, the people who are going to

suffer are the rest of the community who have to live with a very poor development. But I can see where the numbers are and I will not be dividing—I don't think we have had any divisions today. But I will not be dividing on this one; I will find some others to divide on.

The Hon. K.J. MAHER: I point out for the sake of completeness that it allows 10 days after the deemed consent notice for the decision-making body to either grant permission or to impose conditions. There is the possibility to do that, and it is a pretty big incentive if you get the notice for deemed consent to actually stop dragging the chain and do something about it.

Amendment negatived.

The Hon. M.C. PARNELL: My amendment No. 88 [Parnell-1] is consequential on the previous amendment.

Clause passed.

Clauses 120 and 121 passed.

Clause 122.

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

Amendment No 11 [Parnell–2]—

Page 105, after line 23—Insert:

(3) In addition, any person who was entitled to be notified of the application for the development authorisation previously given must be given notice of an application to which subsection (1) applies, and, in particular, such an application must be served personally or by post by the relevant authority on any person who made a representation on the application for the development authorisation previously given.

There is a story behind this amendment as well. I spent 10 years of my life doing this stuff, so I always have stories to illustrate these points.

The Hon. D.G.E. Hood: I like your stories.

The Hon. M.C. PARNELL: I thank the Hon. Dennis Hood. There was a situation in the South-East where a powerline company—it was ElectraNet—wanted to build a new transmission line. It was a category 3 development. It was not something that was envisaged by the planning scheme. It was something where the neighbours and other people could lodge objections to it and appeal—and they did. The objectors did not like the route that the powerline was going to take—it was going to go through some wetlands; it was brolga habitat, from memory—and so they went to court.

The first part of any court hearing is this thing called a roundtable conference, where the parties all get together and see if they can thrash out an agreement. They did that, the objectors and ElectraNet, with the commissioner of the court supervising it, and they reached an agreement whereby the company agreed that the route to be taken would go a certain way, and that satisfied the objectors. What happened was, the court then formally dismissed the appeal that they had lodged—so the court case was all over—and attached the agreed conditions to the development consent.

What then happened—and I think it was only a matter of months later—was that the developer went back to the planning authority and sought to remove the conditions that had been agreed in court. The planning authority said, 'Yes, we are happy to remove those conditions, and it's only a fairly minor matter, so we won't bother telling the objectors. We won't bother going back to them.' What eventually happened was that the company got what it wanted in the first place. The residents had exhausted their right of appeal. They were not given a chance to appeal the variation of conditions, and it was ultimately a bad outcome.

Clause 122 is about variation of authorisations. It is about this situation where you go back for a second bite at the cherry; you want to change something. There are often good reasons to do it; it is not always for ulterior motives. My amendment simply proposes that if you have a form of development where people have been consulted and notified, it makes sense to me that if you then try to change that afterwards, if you go back to try to get a variation, you should go back to the people

whom you notified in the first place and give them a chance to have a say on what they think of the notification. My amendment provides that:

any person who was entitled to be notified of the application for the development authorisation previously given—

so that means the original authorisation—

must be given notice of an application to which subsection (1) applies—

that is, a variation application—

and, in particular, such an application must be served personally or by post…on any person who made a representation on the application.

I know that the government will say, 'This could be difficult, because what if the variation application is five years after the original decision was made?' Yes, maybe people have moved; maybe people have died. I do not think that invalidates this provision, because the obligation is to write or deliver if they have moved or you cannot find them, or they have died—well, so be it. What I do not want to see is applicants for development approval using the variation of authorisation provisions to effectively undermine the rights of citizens to participate in the process.

Under this whole regime of the Development Act, the number of opportunities people have to actually engage in individual development applications is far reduced. There are far fewer opportunities under this regime. What I do not want is for people to find out that they have been dudded by a two-step process, being an original application plus a variation of authorisation application. I think there is common sense in this proposal. It basically seeks to not disempower people whom the law had said have rights to participate in these decisions.

The Hon. K.J. MAHER: The government opposes the Hon. Mark Parnell's amendment. It will require that any objectors to an application to a development authorisation must be notified regarding any application for variation issued in the future, even if it is not relevant to their representation or no matter how minor it is. Clause 122(2)(b) already requires that a variation be treated as a new application. The scope and content of the variation application will determine the level of notification required at that point. It would be unfortunate for blanket notification requirements where they are clearly unnecessary, and would potentially open any such decision to challenge and to relitigate previous decisions.

The Hon. D.W. RIDGWAY: I indicate that the opposition will also be opposing the Hon. Mark Parnell's amendment. It is something we discussed in the Liberal Party and some of the notes have been provided to me. I also highlight clause 122(2)(b) already requires that a variation be treated as a new application. I understand what the Hon. Mark Parnell was talking about with his story of the electricity transmission line and the wetlands, and that the group had not been effective with those objectors who were not notified. However, we think that from reading clause 122(2)(b), which says that it will be treated as a new application for development authorisation, it provides a reasonable amount of protection, and so we will not be supporting the Hon. Mark Parnell's amendment.

The Hon. M.C. PARNELL: I can see where the numbers lie here. I just make the point that, yes, the variation will be treated as a new application—I get that—but in all likelihood that new application will be of a type that does not involve having to notify anyone. It is a matter of degree as well. Let's say, for example, the issue is the location of the entrance point and let's say that that is the only issue the objectors were worried about. They have said that they are happy for this development to go ahead provided you put the entry point on the other side.

If the person agrees to that and they then go back for a variation, and they try to get it put back to the original location, and if that application is not regarded as something that requires public notification, then, effectively, like I say, using a two-step process, they have achieved what they wanted in the first place and they have disempowered objectors in the process. However, I am not going to divide on this.

Amendment negatived; clause passed.

Clause 123.

The Hon. M.C. PARNELL (17:38): I move:

Amendment No 89 [Parnell–1]—

Page 105, after line 31—Insert:

State agency means—

(a) the Crown or a Minister of the Crown; or

(b) an agency or instrumentality of the Crown (including a Department or administrative unit of the State);

We are now onto a new part, part 8, which is another pathway for developments to be approved, this time in relation to what is called 'essential infrastructure'. Effectively, I think this is the current section 49 and section 49A which we referred to as 'Crown development'. Just by way of background, I support the concept of having a development pathway for government projects. There are some government projects which I think, yes, they can go through a separate pathway and there will be different rules attached to those.

What I struggle with is what has happened over the last several years with this special government project pathway where the minister is the decision-maker—and this is the important bit. It might involve some other agencies giving advice or whatever, but the ultimate decision rests with the minister, so it is the minister deciding on a government project and so the answer is yes. What has happened over the last several years is that they have decided that they want to take advantage of this fast-track, ministerial decision-making approval stream, not just for government projects but for other projects that the government likes.

So you have this provision which says that if a government department supports a development, if they are behind it morally or enthusiastically, there might be no government money involved at all; it might be a 100 per cent private project. But if the government is behind it in an encouragement sense, then they can allow that project to use this special pathway where the decision-maker is the minister and there is no right of appeal; no-one can challenge any approval.

That is what this amendment—and I think there are some consequential ones as well—is aimed at. I have to say that this has caused me some discomfort because sometimes the projects that are hanging on the coat-tails of the state are, in fact, projects that I quite like. I think they are good projects and I want them to go ahead.

A good example would be—and I gave an unfortunate television interview which may have given the wrong impression about my support or otherwise of a certain wind farm project—that I love wind farms and I want to see more of them. However, I do not approve of those private projects being treated as Crown development or, in this case, being treated as using the essential infrastructure stream. I want those projects go through the normal process. I want the public to have the right to challenge even, projects. It is not about whether you like the project or not, it is about the appropriateness of the decision-making pathway.

I appreciate that I am batting for certain projects and I want them to happen, but I am also batting for proper process and that is what this is about. This amendment effectively says that it has to be a state agency that is doing the project, who is a proponent. A state agency is the crown or a minister or an agency or instrumentality—in other words, a department or an administrative unit. What I do not want is to have people hanging on other people, private companies hanging on the coat-tails of government to get the advantage of the government assessment pathway. That is the purpose of this exercise.

I know the government will say that this just replicates the current system—which I have been railing against for several years—so we are reopening this act and I am railing against it now. Crown development should be exclusively for government projects.

The Hon. K.J. MAHER: I understand what the honourable member is saying but we are just completely and utterly opposed to what he wants and the change to the status quo that he is suggesting. This clause only applies to infrastructure being built in an infrastructure reserve set out in the code. The government opposes both amendments Nos 89 and 90 as we do not believe the benefits for this provision should be limited to only state agencies.

Many forms of infrastructure are designed and constructed by infrastructure providers other than state agencies. This provision was drafted to provide a means by which all providers of essential infrastructure, not just state agencies, can be developed in accordance with standard designs. This provision gives effect to reform 17.6 as put forward by the Expert Panel on Planning Reform. The provision as drafted takes into account that since the Development Act was drafted in the early 1990s there has been a significant shift in the way infrastructure is built, delivered and operated.

Whereas once these functions were largely and in a lot of cases almost always the preserve of the government, it is now increasingly common that in many instances this role has been taken on by the private sector through different sorts of models to deliver it. Nor is it uncommon for infrastructure to be delivered in various forms of partnership with government and the private sector, and there are a number of examples of that. The bill needs to be able to reflect and facilitate these new ways of delivering infrastructure.

The Hon. D.W. RIDGWAY: I indicate that the opposition will be opposing the Hon. Mark Parnell's amendment, especially in the more modern world that we find ourselves where there will be other people, other companies or, shall I say, other bodies that may be building and providing essential infrastructure to the community and to developments and to customers in this state.

From the opposition's point of view, we want to make sure, as I think I have said on a number of occasions, that this is about facilitating development and economic activity. I understand that the Hon. Mark Parnell has been raising this almost as long as he has been in this place, but we really do think it is important not to support this provision, so we will not be supporting his amendments today.

Amendment negatived.

The Hon. M.C. PARNELL: Amendment No. 90 [Parnell-1] is consequential. That is again trying to limit the operation of this provision to state agencies, so I will not be moving that. I think probably amendment No. 91 [Parnell-1] is consequential as well because we have agitated the appropriateness of accredited professionals giving full development authorisation, as opposed to just building consent. I will regard it as consequential and I will not be moving it. I move:

Amendment No 2 [Parnell–3]—

Page 106, after line 10—Insert:

(4) This section does not apply to any development within the Adelaide Park Lands, within the meaning of the *Adelaide Park Lands Act 2005* (and any such development must be assessed under Part 7).

This is effectively consequential. It relates to the Adelaide City Council Parklands amendments, which the Liberals have supported. We have said earlier that they cannot use major project status, and this is saying that they cannot use this fast-track Crown development status in the Parklands. I hope it is regarded as consequential.

Amendment carried; clause as amended passed.

Clause 124.

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

Amendment No 3 [Parnell–3]—

Page 109, after line 4—Insert:

(28) This section does not apply to any development within the Adelaide Park Lands, within the meaning of the *Adelaide Park Lands Act 2005* (and any such development must be assessed under Part 7).

If we can treat this in the same way, again this is an Adelaide Parklands provision, which the opposition has supported, for which I am grateful.

Amendment carried; clause as amended passed.

Clause 125.

The Hon. M.C. PARNELL: Amendment No. 92 [Parnell-1] is consequential on my amendment No. 90, which failed, so I will not be moving it. I move:

Amendment No 4 [Parnell–3]—

Page 112, after line 17—Insert:

(27) Subject to subsection (28), this section does not apply to any development within the Adelaide Park Lands, within the meaning of the *Adelaide Park Lands Act 2005* (and any such development must be assessed under Part 7).

(28) Subsection (27) does not apply—

(a) so as to exclude the Governor making a regulation under subsection (4) with respect to minor works of a prescribed kind; or

(b) so as to exclude from the operation of this section development within any part of the *Institutional District* of the City of Adelaide that has been identified by regulations made for the purposes of this paragraph by the Governor on the recommendation of the Minister.

(29) Before making a recommendation to the Governor to make a regulation identifying a part of the *Institutional District* of the City of Adelaide for the purposes of subsection (28)(b), the Minister must take reasonable steps to consult with the Adelaide Park Lands Authority.

(30) A regulation under subsection (28)(b) cannot apply with respect to any part of the *Institutional District* of the City of Adelaide that is under the care, control or management of The Corporation of the City of Adelaide.

(31) For the purposes of this section, the *Institutional District* of the City of Adelaide is constituted by those parts of the area of The Corporation of the City of Adelaide that are identified and defined as—

(a) the Riverbank Zone; and

(b) the Institutional (Government House) Zone; and

(c) the Institutional (University/Hospital) Zone,

by the Development Plan that relates to the area of that Council, as that Development Plan existed on 24 September 2015.

Again, this is consequential on the Adelaide Parklands issue. I appreciate the council's support.

Amendment carried; clause as amended passed.

Clauses 126 and 127 passed.

Clause 128.

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

Amendment No 11 [Ridgway–1]—

Page 113, line 34—Delete ', before granting the building consent,'

Amendment No 12 [Ridgway–1]—

Page 113, after line 40—Insert:

(2a) A requirement under subsection (1)—

(a) subject to paragraph (b)—may be imposed on the basis that the relevant matters must be addressed before the relevant authority will grant building consent; and

(b) in cases prescribed by the regulations—may only be imposed as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed.

My amendment No. 11 deletes the words 'before granting the building consent'. From my recollection and understanding of the opposition's drafting of these, this is to do with adaptive re-use. My amendment No. 12 is, if you like, on the same issue.

When we tabled these the government had some concerns around amendment No. 12, and I will be interested to hear the government's view on that. However, I urge all members to support these amendments. It is really about adaptive re-use, something that the Legislative Council supported late last year and throughout the debate. The government has raised some concerns, and

I will be interested to see whether we have been able to allay those concerns or whether they are insurmountable.

The Hon. K.J. MAHER: The government is broadly supportive of this set of amendments. They are related to amendments moved by the opposition on adaptive re-use. I think it might be useful, as the honourable member has invited, to seek a bit of clarification in amendment No. 12 [Ridgway-1] and consider inserting, in paragraph (a) after the word 'addressed', the words 'as part of the application'; so it is addressed as part of the application.

This would clarify that the application must contain those details and prevent possible misinterpretation of the amendment as drafted, that the building work itself must be carried out at that point. So we are happy to support both, but with the words 'as part of the application' inserted after the word 'addressed' in paragraph (a) of amendment No. 12 [Ridgway-1].

The Hon. D.W. RIDGWAY: I seek leave to move my amendment in an amended form.

Leave granted.

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

Amendment No 12 [Ridgway–1]—

Page 113, after line 40—Insert:

(2a) A requirement under subsection (1)—

(a) subject to paragraph (b)—may be imposed on the basis that the relevant matters must be addressed as part of the application before the relevant authority will grant building consent; and

(b) in cases prescribed by the regulations—may only be imposed as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed.

I am happy to move this amendment in an amended form if the government is broadly supportive.

The Hon. M.C. PARNELL: The Greens supported the adaptive re-use provisions and, whilst I am trying to get my head around the meaning of this insertion, I do not think it does any harm; if it does, we will come back and deal with it again. For now, we are happy to support it.

Amendment No. 11 carried; amendment No. 12 as amended carried.

The Hon. D.W. RIDGWAY: I think there is support for all the amendments in relation to adaptive re-use. I move:

Amendment No 9 [Ridgway–2]—

Page 114, line 5—After 'Building Code' insert 'or a Ministerial building standard'

Amendment No 13 [Ridgway–1]—

Page 114, line 8—Delete ', before granting the building consent,'

Amendment No 10 [Ridgway–2]—

Page 114, line 11—After 'Building Code' insert 'or the Ministerial building standard (as the case may be)'

Amendment No 14 [Ridgway–1]—

Page 114, after line 11—Insert:

(3a) A requirement under subsection (3)—

(a) subject to paragraph (b)—may be imposed on the basis that the building work or other measures to achieve compliance with the relevant performance requirements must be addressed before the relevant authority will grant building consent; and

(b) in cases prescribed by the regulations—may only be imposed as a condition of the building consent that must be complied with within a prescribed period after the building work to which the application for consent relates is completed.

The Hon. K.L. VINCENT: To clarify Dignity for Disability's position on this block of amendments (if it is the block of amendments I think we are dealing with, because I appreciate there

is some confusion), at this point Dignity for Disability is not inclined to support the amendments around adaptive re-use, particularly because, from our reading of them, this may allow for developments and re-use of spaces to go ahead without proper consideration of disability access.

I appreciate what the mover is trying to achieve in terms of giving people a chance to start up a business or to re-use a space that has been inactive for a long time, but I think at some point we have to draw a line and say, 'Well, things either have to be accessible or they don't.' My concern, and the mover can certainly tell me if we are misreading this amendment, is that if we give people leeway and say, 'We'll come back in a year or 18 months or whatever it may be and check how things are progressing in terms of the accessibility or other features of this building,' we know for a fact that that kind of checking up does not happen regularly enough.

If the mover can give us some reassurance on that, whether or not that is an accurate interpretation of what could happen under the adaptive re-use amendments, I would be happy to consider it, but at this point we are not inclined to support.

The Hon. D.W. RIDGWAY: It is not the opposition's intention to make it difficult for the issues that the Hon. Kelly Vincent has raised. These amendments have been drafted in negotiation with the government to try to get the best possible outcome from an adaptive re-use point of view, so we are certainly not trying to limit the opportunities. As I said, it was something that the Leader of the Opposition (Steven Marshall) raised with minister Rau during the very early stages of negotiations around this piece of legislation and that is why there has been this collaborative approach between the government and the opposition. We are trying to get the best possible outcome for adaptive re-use for everybody concerned.

The Hon. M.C. PARNELL: On that issue, I certainly understand the Hon. Kelly Vincent's concerns because, if you are building a brand-new building from the ground up, there is no excuse not to make it accessible. The dilemma is that, if we move towards retrofitting and re-using more old buildings, then those inherent design flaws can remain—which the honourable member in a double page spread in the newspaper highlighted on a walk down King William Street, and other places, showing that it only takes a couple of steps, often on a heritage building, and it is an inaccessible building.

So, absolutely, I think we need to respect the concerns of the Hon. Kelly Vincent. The proof of the pudding will be in the eating, when this adaptive re-use comes in, whether the authorities attach a requirement for making a building accessible at the same time. I used the example with the Hon. Kelly Vincent before of the building at No. 27 Leigh Street, which my wife rented as a Senate office and got some stick in the newspaper for having spent money on refurbishment, because people assume that it is used for gold-plated toilets whereas it was making an existing office building accessible. The cost all went on the ramp from the street and on the accessible toilet up on the third floor. So, there is now one more building that is accessible.

I think the question is that adaptive re-use has at its heart things like saving resources and not having to unnecessarily demolish things that are otherwise quite serviceable, but it need not be an impediment to making buildings accessible. I appreciate the Hon. Kelly Vincent's point. It will be up to the government, through the planning and design code, whether they are prepared to add that extra requirement to the people who choose to retrofit old buildings.

The Hon. K.L. VINCENT: The Hon. Mr Parnell has more or less stolen the words out of my mouth but I would add, also, just for a point of clarification, that in no way was I intending to imply that the opposition is trying to make things difficult. I am merely stating at this point that is the way that Dignity for Disability reads those amendments in terms of the impacts that they could have and, given that that is a concern for our core constituency, I cannot support them at this particular time.

I appreciate that the opposition is not making a conscious effort to make things more inaccessible but, as I said, given that we, as a committee, have supported universal design becoming part of this bill, I think at some point we do have to draw a line in the sand and say either we are going to support things being accessible to everyone or we are not. Our concern is that, if we start allowing leeway around whether things have to be accessible straightaway or not, that could erode that.

Like I said, I think we would be happier if there were more stringent mechanisms in place for monitoring compliance with the existing disability access standards in the same way that there are mandatory inspections for work health and safety and food safety, for example, and we might be more convinced that this would be successful; but, given that the rate of compliance is already very low and the improvement on that compliance is very much dependent on individual complaints being lodged, we are not convinced that now is the right time to go ahead with this particular amendment that might allow for further noncompliance.

Certainly, as I said, we would like to see increased compliance and we are investigating legislative measures to make that occur (as mentioned in that double spread that the Hon. Mr Parnell alluded to, with a hint of jealousy, I think), but for the time being it is not yet the case, so I do not feel that we can confidently put our support behind the amendments. Of course, we can see where the numbers lie and we accept that it is going to happen anyway, but I want to put on the record our very strongly held view at this point.

Amendments carried; clause as amended passed.

The Hon. D.W. RIDGWAY: I would like to make a couple of quick comments, if I may. It is just after 6 o'clock and it is my intention to move to report progress, but I will put on the record that the vast majority of the amendments and the clauses that we will deal with when we next come back to this place in a couple of weeks' time will be around the government's proposed infrastructure scheme or schemes. This is an opportunity to say to the government and to any of the industry stakeholders who are listening to the live streaming of this very riveting debate that we are having this afternoon on their computers that we have the opportunity now to try to get this thrashed out a little more, if we are trying to progress the bill in the next couple of weeks.

There still seems to be a fair level of confusion around exactly what is proposed. I note that in the file that was prepared by my office, which was some weeks ago, there is an explanation of the government's infrastructure scheme, but I am sure that scheme has changed. I think it is appropriate to put on the record that, if we are to progress this bill with any speed when we return in a couple of weeks' time, it would be useful for all stakeholders to have a close look at where everybody is in relation to the infrastructure schemes.

Progress reported; committee to sit again.

OCCUPATIONAL LICENSING NATIONAL LAW (SOUTH AUSTRALIA) REPEAL BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

SOUTHERN STATE SUPERANNUATION (PARENTAL LEAVE) AMENDMENT BILL

Introduction and First Reading

Received from the House of Assembly and read a first time.

At 18:10 the council adjourned until Tuesday 8 March 2016 at 14:15.