Local Government and Transport Committee

19th Meeting, 2006

Tuesday 27 June 2006

The Committee will meet at 2 pm in Committee Room 6

1. **Items in private:** The Committee will consider whether to take items 3 and 4 in private.

2. **Proposed Local Government Elections (Scotland) Bill:** The Committee will consider a statement of reasons for not consulting on the draft proposal and will take evidence from—
   
   David Davidson MSP

3. **Proposed Transport and Works (Scotland) Bill:** The Committee will consider its approach to this proposed bill.

4. **Freight transport inquiry:** The Committee will consider a draft report.

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**Agenda Item 2**

Paper by the Clerk

**LGT/S2/06/19/1**

**Agenda Item 3**

Paper by the Clerk [private]

**LGT/S2/06/19/2(P)**

**Agenda Item 4**

Draft report on the freight transport inquiry [private] – to follow

**LGT S2/06/19/3(P)**
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Local Government Elections (Scotland) Bill

Introduction

1. David Davidson MSP lodged a proposal on 8 June 2006 for a Member’s Bill to provide for local government elections to be held on different dates from Scottish Parliamentary elections and to delay the next government election until 2008. The proposal can be found at Annex A.


Process

3. The new rules governing the consideration of Members’ Bill establish a two part process under which members submit a draft proposal, which is normally consulted upon, before submitting a final proposal. This final proposal requires the support of at least 18 members from at least half the Parliamentary Bureau parties or groups, within 1 month, to enable it to proceed to Stage 1.

4. If a draft proposal is not consulted on for a period of 12 weeks from the date of lodging it, the Member must provide a ‘statement of reasons’ why not. This is then referred to a Committee for consideration.

5. In the case of the proposed Local Government Elections (Scotland) Bill, the member in charge has not consulted on the Bill, citing the consultation on Local Government Elections (Scotland) Bill carried out in 2005 by David Mundell when he was MSP for South Scotland. The member in charge states that this consultation paper is still relevant to his proposal. His statement of reasons can be found at Annex B, along with a copy of the original consultation document issued by David Mundell.

6. David Davidson MSP will be in attendance at the Committee meeting on 27 June 2006 to take any questions the Committee might have.
Proposal by Brian Monteith

7. An identical proposal to that lodged by David Davidson was lodged by Brian Monteith on 29 September 2005. Brian Monteith also provided a statement of reasons for not consulting on the proposed Bill which made reference to David Mundell’s previous consultation.

8. The Committee took evidence from Brian Monteith on 8 November 2005 and agreed that it was satisfied with the statement of reasons given for not consulting on the draft proposal. The relevant extract from the Official Report of that meeting can be found at Annex C.

9. Brian Monteith has not yet brought forward a final proposal on his proposed Bill. Standing Orders do not, however, preclude David Davidson from bringing forward an identical proposal.

Recommendation

7. The Committee is invited to consider whether there has been enough consultation on David Davidson’s proposal to enable its merits to be properly assessed at later stages. Members are not invited to consider the principles or content of the proposed Bill at this point. The decisions available to the Committee are:

- that the Committee is satisfied with the statement of reasons provided and that the proposed Bill may proceed to a final proposal;
- or
- that the Committee is not satisfied with the statement of reasons provided and that further consultation must take or the proposal will fall.

8. In making this decision, members will wish to consider whether the consultation is:

- appropriately worded, open to critical as well as supportive feedback;
- sent to a wide range of bodies (not just those already inclined to support it);
- open to responses for a reasonable period.

Recommendation

9. Members are invited to decide whether they are or are not satisfied with the statement of reasons attached to the draft proposal for the Local Government Elections (Scotland) Bill

Rebecca Lamb
Assistant Clerk, Local Government and Transport Committee
Draft Proposal for Members’ Bills

David Davidson MSP: Proposed Local Government Elections (Scotland) Bill—Draft proposal for a Bill to provide for local government elections to be held on different dates from Scottish Parliamentary elections and to delay the next government election until 2008. (lodged 2 June 2006)

The statement of reasons why, in the member’s opinion, further consultation is not necessary for the draft proposal. This can be found on the Bills page of the Parliament’s website and in SPICe
Statement of Reasons by David Davidson MSP

In relation to my draft proposal for a Member's Bill, the proposed Local Government Elections (Scotland) Bill, I do not consider that consultation on the draft proposal is required for the following reasons:

A consultation on Local Government Elections (Scotland) Bill was carried out by David Mundell, when he was MSP for South Scotland, which was open to responses between 18 February 2005 and 15 June 2005. My draft proposal is in the same terms as David Mundell's draft proposal. Therefore the consultation paper is still relevant to my proposal.

The main questions to which opinions were invited were:
- the problems that are currently generated by holding elections on the same day;
- the new problems that will be created as a result of the introduction of the single transferable vote for local government elections;
- the date to which local government elections should be moved, if at all;
- what benefits, if any, separate local government elections will create; and
- what the financial consequences of holding local government elections separately would be.

Nearly 200 copies of the consultation document were sent to every local authority in Scotland, the Convention of Scottish Local Authorities (COSLA), electoral organisations, the Association of Electoral Administrators (AEA), the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR), a number of academics, equal opportunity organisations and other interested parties. The consultation was also available on the Scottish Parliament website and was trailed in the Scottish press.

In light of this recent and thorough consultation I do not believe that it is necessary to carry out any further consultation, as all those who wished to respond to the proposal have had the opportunity to do so. On that note, I thank the respondents whose submissions have provided me with a comprehensive base to take my proposal forward to the next stage.

I therefore request the Committee to consider the above statement and confirm that it is satisfied with the reasons for not consulting on the draft proposal.
Local Government Elections (Scotland) Bill Consultation Document

David Mundell MSP
February 2005

Introduction

The Proposed Bill Explained

Local Government Elections - The Current Position

Why the De-Coupling of Elections is Necessary

1. To Increase Local Government Accountability

2. Aiding the Introduction of Single Transferable Vote (STV)

Delaying the Next Local Government Elections to 2008

Questions for Consultation
Introduction

I lodged my draft proposal for a member’s bill, to require local government elections to be held on different dates from Scottish Parliament elections, and to delay the next local government election until 2008, initially on 23 June 2004. I was prompted into action by the passing of the Local Governance (Scotland) Act on 23 June 2004, which introduced the system of Single Transferable Vote (STV) for local government elections in Scotland.

I have always held the view that separate elections for local government and the Scottish Parliament would allow for real local accountability by increasing the focus on the real issues of local government which are currently overshadowed by the policies of the Scottish Parliament.

However, with the introduction of STV for local elections I believe the need for separate elections is greatly increased, as the Scottish voter will, in 2007, be required to vote for two different bodies with two different electoral systems using three ballot papers. As I will discuss later, evidence shows that a combination of voting systems on any one day can cause significant voter confusion and lead to an increase in spoilt or inadmissible votes.

I believe that by moving local government elections away from the Scottish Parliamentary elections local democracy will be increased and strengthened and we will find it easier to use the new voting system.

To inform the drafting of my Bill, I would greatly appreciate the opportunity to hear your opinion on my proposal to separate the two elections from each other, with the next local government election delayed until 2008, before I introduce the Bill to the Scottish Parliament. Please note that all responses to this consultation will be made public unless you request otherwise. Confidential responses will nevertheless be included in any summary or statistical analysis, which does not identify individual responses.

Please have your replies to me by Wednesday 1 June 2005.

David Mundell MSP
The Proposed Bill Explained

The proposed Bill will provide for an amendment to existing legislation to require local government elections to be held on different dates from all other elections and to delay the next local government election until 2008.

When I initially lodged the proposal under the previous Scottish Parliament procedures, I quickly gained 26 signatories from the Scottish Conservative Party, Scottish National Party, Green Party, Senior Citizens Unity Party and one independent. I will re-submit my proposal now simultaneously to holding this consultation and I hope to gain the same support from members. The consultation will last for three months, after which the responses will be collated and analysed before any further progress is made.

The MSP signatories are:
Mr Brian Monteith (Scottish Conservative Party), Mr Jamie McGrigor (Scottish Conservative Party), David McLetchie (Scottish Conservative Party), Murdo Fraser (Scottish Conservative Party), Alex Johnstone (Scottish Conservative Party), Mrs Nanette Milne (Scottish Conservative Party), Mr Ted Broacklebank (Scottish Conservative Party), Margaret Mitchell (Scottish Conservative Party), Miss Annabel Goldie (Scottish Conservative Party), Alex Fergusson (Scottish Conservative Party), Lord James Douglas-Hamilton (Scottish Conservative Party), Mr David Davidson (Scottish Conservative Party), Bill Aitken (Scottish Conservative Party), Mary Scanlon (Scottish Conservative Party), Phil Gallie (Scottish Conservative Party), Mr Mark Ruskell (Green Party), John Scott (Scottish Conservative Party), Mark Ballard (Green Party), Eleanor Scott (Green Party), Robin Harper (Green Party), Patrick Harvie (Green Party), Shiona Baird (Green Party), Chris Balance (Green Party), Tricia Marwick (Scottish National Party), Dennis Canavan (Independent), John Swinburne (Scottish Senior Citizens Unity Party)

In addition, I am pleased to announce that in a discussion at its December 2004 meeting the Convention of Scottish Local Authorities (COSLA) agreed to support the main provisions of this, my proposed Bill.
Local Government Elections - The Current Position

At present local government elections are held on the same day as Scottish Parliament elections following the passing of the Scottish Local Government (Elections) Act 2002 during the first Scottish parliamentary session.

The 2002 Act moved local government elections to a four-year cycle. Local government elections were previously held on a three-year cycle under section 5(3) of the Local Government etc (Scotland) Act 1994, whilst Scottish Parliament elections are held on a four-year cycle under section 2 (2) of the Scotland Act 1998. The 2002 Act amended the Local Government etc (Scotland) Act 1994 to link the timing of elections to the years in which ordinary elections of the Scottish Parliament occur.

Consequently, the next local government election is due on the first Thursday in May 2007.

In June 2004, the Scottish Parliament passed the Local Governance (Scotland) Act 2004. This Act, among other changes, introduced the system of Single Transferable Vote (STV) to be used at all future local government elections in Scotland. This represents a radical change in how electors will be choosing their councillors in the future.

Under this proposed system of STV, electoral wards within local government areas are grouped together, and people vote for three or four members for each ward. Voters are presented at the polls with a list of all the candidates standing for the ward. The voter marks “1” on the ballot paper against their first choice, a “2” against the second choice and so on, making as many choices as the voter wishes until all the candidates have been given a preference. The voter may cast only one, or any other number of preferences.

In marking their preferences, voters are not confined to one party but can select, for example, a Green candidate as first preference, an independent for second, a Conservative for their third, and so on. This allows the voter to give a preference for the individual candidates rather than their parties, although the candidates’ party allegiances will most likely be listed, and as such may form the basis for a voter’s chosen preferences.
Why the De-Coupling of Elections is Necessary

1. To Increase Local Government Accountability
I wish to see local democracy and accountability flourish. The de-coupling of local elections will increase local government accountability as people vote for their local councillors according to their performance at the council and, I believe, will greatly strengthen local democracy as more people become aware of local elections and so become engaged in local politics.

In their official report on the 2003 local government and Scottish Parliament elections, the Electoral Commission concluded that in the media “the council elections were overshadowed by the Parliament elections”. Stand alone local elections will allow the focus of the election campaign to centre on local issues, so creating a real debate on local priorities that really matter to people, like council tax levels, housing, planning, licensing, local transport, road and pavement maintenance, litter, and refuse collection. Therefore as local councillors’ work receives more publicity, people will begin to vote for councillors according to their record at local government and hold them to account for that record.

The McIntosh Commission, a working group of experts set up before devolution in 1998 to make recommendations on the relationships between Local Government and the Scottish Parliament, concluded that: “We do not however think that local government elections should be held at the same time as the parliamentary elections: although that might produce a higher turnout, it does also mean that the local elections would tend always to be held under the shadow, as it were, of the parliamentary election and that national issues will dominate local elections even more than they tend to do whenever those elections are held. The result is to weaken the democratic mandate of local government”.2

In addition, I believe that separating the elections will strengthen the institution of local government, because by increasing its transparency by allowing it more time in the media spotlight, the role of a councillor will become more fully understood. This may have the added bonus of making the post of local councillor more attractive to more people from different backgrounds, which can only serve to make local government more representative of Scottish society as a whole. More empowered, democratic and accountable councils will deliver a more focused local governance, one geared towards local solutions for local problems.

Supporters of combined elections argue that by keeping local government together with higher profile elections a higher turnout can be maintained. This is, however, only hiding the problem of a disengaged local electorate, not solving it. The real solution lies in local politicians that respond to local issues, delivering specific solutions to the specific problems in their community.

The Kerley Commission, the Renewing Local Democracy Working Group set up in 1999 to consider electoral systems for local government, concluded in 2000: “We recognise the attractions that coincident elections would bring to local government: a share in the increased turnout that a national election brings; and, from a wider perspective, a rationalisation of the voting demands on the electorate. However, the higher turnout could not be claimed as an increased democratic mandate for local government: it would not bring additional voters to the polls because of their involvement in local government issues. In fact, coincident elections would tend to reduce the electorate’s focus on local government issues. Conversely, separate elections would ensure that local government issues are at the heart of local government elections: this seems to us an essential part of democracy and democratic renewal”.3

1. Aiding the Introduction of Single Transferable Vote (STV)

The introduction of STV for the local government elections in 2007 will mean that voters will be faced with two different voting systems on election day, with STV being a completely new electoral system for the large majority of Scots.

The Scottish Parliament is elected under the Additional Member System (AMS) which requires voters to put two crosses on two separate ballot papers, one for their constituency member and one for a list member. At the same time we will be using the STV system for the first time and marking 1, 2, 3 etc. to indicate our candidate or candidates of choice.

Evidence shows that the number of spoilt votes increases dramatically where two different voting systems are used simultaneously. For example, when STV and AMS were used in elections to the Belfast City Council and the Northern Ireland Assembly in 2001, 3.3 per cent of the people who voted for candidates in the Belfast City Council elections failed to exercise their votes correctly. That would approximate to 62,388 spoiled ballots in the 2003 Scottish council elections, which would be 5 times the actual 2003 spoilt ballot number (12,803).

Professor John Curtice from the Department of Government, University of Strathclyde argued at the Local Government Committee that: “There is no doubt that a somewhat higher number of invalid votes will be cast under the new system (STV) than are cast under the current system (FPTP)”.

The recent elections in London again showed that being confronted with different systems on the same day creates difficulties. At the elections in May, 56,862 (2.9%) votes for mayor and 167,071 (6.7% constituency member & 2.53% London-wide party choice) assembly ballot papers were ruled inadmissible. To put this into context the total number of spoilt ballots in the 2003 Scottish Parliamentary elections was only 0.65%

I believe it is important for voters to be able to vote quickly and easily and for them to know how their vote will affect the overall result in order to attract them to the polling booth in the first place. There is a danger that a combined election with STV will increase voter apathy due to the complexity of having three voting systems running side by side, the time it will take to vote and possibly the need to queue to cast their vote.

Separating the elections will avoid this by allowing people more time to learn exclusively about the new STV voting method and voting without the distraction of the other systems.

4. Local Government and Transport Committee Meeting on Tuesday 2 December 2003
5. BBC online – Monday 14 June 04
A study carried out by the Electoral Commission revealed that: “Opinion polling following the 2003 elections in Scotland also suggested that 13% of non-voters claimed that confusion over the voting systems being used led them not to vote.” Additional evidence collected indicated that some electors “felt unsure as to how their vote would influence the election of the regional list MSPs”.

Furthermore, the Single Transferable Vote Working Group concluded in their Final Report on 14 December 2004, “The Group recognises that the next local government elections are due to take place on the same day as the elections to the Scottish Parliament. It notes that the majority of councils and election practitioners favour decoupling the elections and that this approach would ease the burden of administering the elections and also reduce the potential for voter confusion.”

6. Written evidence to the Local Government and Transport Committee
Delaying the Next Local Government
Election to 2008

My proposal seeks to separate local government elections from Scottish Parliamentary elections. Currently the next election is due on the first Thursday in May 2007. However I propose that the local government elections should be de-coupled from those of the Scottish Parliament.

I know some supporters of de-coupling would like to see the election moved to a year earlier than currently scheduled, to 2006, and I hope to hear these arguments as part of my consultation. I do not think, however, that this proposed legislation can progress in time, neither can the new rules and systems pertaining to STV be in place in time, nor might the boundaries be determined early enough for candidates to be selected and elections held.

Voter fatigue may occur if voters are asked to vote too often, too close together, so in order to avoid this, I consider the best option available to us is to delay the local elections for a year until 2008. While this is extending the Councillors’ mandate without checking with the electorate I think it will be more beneficial in the long-term, both for local government accountability and to minimise the number of wasted votes at both elections.
Questions for Consultation

I would very much appreciate as many views as possible relating to my Bill including the matters I have previously discussed. I would, however, particularly value your comments on the following questions. Please note that all responses to this consultation will be made public unless you request otherwise. Confidential responses will nevertheless be included in any summary or statistical analysis, which does not identify individual responses.

1. What do you think are the problems that are currently generated by holding elections on the same day?

2. What new problems do you think will be created as a result of the introduction of the single transferable vote for local government elections?

3. To what date would you like to see the local government elections moved, if at all?

4. What benefits, if any, do you think separate local government elections will create?

5. What are the financial consequences of holding local government elections separately?

Please feel free to add any additional comments or views you may have with regard to my proposal.

Thank you for taking part in my consultation, it will be very beneficial to receive your opinions before going any further with the development of my Bill and I appreciate the time you have taken to do so.

Please have your replies to me by Wednesday 1 June 2005 at:

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Scottish Parliament
Local Government and Transport Committee

Tuesday 8 November 2005

Proposed Local Government Elections (Scotland) Bill

The Convener: Agenda item 3 is on the proposed local government elections bill. I welcome Brian Monteith MSP, who is the bill's sponsor, and Claire Menzies Smith, from the non-Executive bills unit, which is supporting the bill. Mr Monteith is here because he suggests that there be no further consultation on the proposed bill as it progresses to further consideration by Parliament, as it was consulted on reasonably recently by David Mundell MSP, prior to his leaving this Parliament after his election to the Westminster Parliament.

The purpose of this afternoon's questioning is to give the committee the opportunity to consider whether it is content that there has been sufficient consultation on the proposal to enable it to be assessed properly at future stages. We are not invited at this stage to give any views on the proposed bill's principles. I ask committee members to leave aside their instinctive support for or opposition to the proposal; all that they are asked to do this afternoon is to satisfy themselves as to whether Mr Monteith's explanation of the previous consultation's sufficiency will allow us to support the proposal's progress.

At this stage, we must decide whether we are content with the reasons that have been provided for not consulting and so will allow the proposed bill to proceed to a final proposal, or whether we are not content and believe that further consultation is necessary if the proposal is not to fail. Those are the questions that we must consider and on which we have to come down on one side or the other.

A paper has been produced to outline the position. I will allow Brian Monteith a short time—I hope that he will not take too long—to set out why he feels there has been sufficient consultation. Following that, I will take questions from committee members.

Mr Brian Monteith (Mid Scotland and Fife): Thank you, convener. I will keep my explanation brief because the committee already has a paper from me.

Committee members will be familiar with the fact that David Mundell proposed a local government elections bill when he was an MSP for the South of Scotland. He consulted on the proposal from 18 February 2005 until 15 June 2005 and
asked open questions that gave respondents the opportunity to agree or disagree with the policy content of the proposed bill. I was a seconder of that bill and, as David Mundell resigned following his departure to Westminster, I took the opportunity to lodge the current draft bill proposal.

It is my belief that the proposal should be allowed to progress using David Mundell's consultation because there is no difference between the current bill proposal and the one on which he consulted. The committee must decide whether it is satisfied that that is the case by deciding whether the consultation was appropriately worded and open to critical as well supportive feedback; I argue that it was both of those.

The committee must also decide whether the consultation was sent to a wide enough range of bodies. It was sent to a considerable range of bodies: to those that might be interested in supporting the bill and those that might not, such as equality bodies. I can give some names. The committee must also decide whether the consultation was open for responses for a reasonable period. It was, in fact, open for responses for longer than the minimum period and a number of press statements were issued to help to promote the bill proposal.

I contend that the bill proposal should receive the committee's support so that it can move on using the consultation that has already been undertaken. I have received statements of support from the Convention of Scottish Local Authorities and Unison, which state that the responses that their members gave to the consultation would not be changed in any great respect by the new bill proposal. I will spare the committee the quotations, but the responses are available if any committee member wishes to see them.

**Mr Davidson:** I appreciate that Mr Monteith has spoken to COSLA, but I have recently spoken to COSLA and to the Society of Local Authority Chief Executives and Senior Managers, which represents returning officers, who have serious concerns. Have you confirmed that their position is still that muddle and confusion will be caused if the proposed bill is not progressed?

**The Convener:** The issue is not whether you or respondents to the consultation support the bill proposal; questions should relate to whether the consultation was sufficient.

**Mr Davidson:** The question was whether Mr Monteith has had any contact with SOLACE to confirm that it has not changed its view since David Mundell's consultation took place.

**The Convener:** I am not sure that that is entirely relevant, but I will allow Brian Monteith to respond if he wishes.
Mr Monteith: I have not asked all the people who were consulted in the first place whether they have changed their views. One would do that only if the committee decided that the consultation process was not adequate. I approached the Convention of Scottish Local Authorities and Unison to ask whether they thought the process should be repeated; I did not ask their views about what their various membership bodies would say.

Fergus Ewing: Has anyone complained about not having been consulted?

Mr Monteith: No one has complained as far as I am aware. Circulation of the consultation was wide. David Mundell was willing to provide translations, for example, but there were no requests for that. As far as I am aware, there were no complaints from people about their being unable to participate.

Fergus Ewing: Was the consultation, which seemed to me to be thorough, wide-ranging and wholly sufficient, carried out with the help and guidance of Parliament staff as to who should be consulted? Was advice followed in all respects?

Claire Menzies Smith (Scottish Parliament Directorate of Clerking and Reporting): Yes it was. Both NEBU and SPICe were consulted and their advice was followed.

Tommy Sheridan: I have another question for Claire Menzies Smith. Has NEBU carried out a full analysis of the responses? I appreciate that there was a problem with the amount of time it took to analyse the responses to consultation on the "right to die bill", as its name has been shortened to. If NEBU has not analysed the responses, how long would it take to do so?

Claire Menzies Smith: The responses have almost been analysed. That work will be ready shortly.

The Convener: Are members content with the explanations that have been given? I look to colleagues for guidance.

Bruce Crawford: Given what Claire Menzies Smith has told us—which is that the bill has followed the normal process of consultation—and that, to use Fergus Ewing’s words, all the advice that staff offered was taken, and given how recent the previous consultation was, I am not sure what value there would be in repeating the exercise, unless someone can bring to bear an argument that any circumstance has changed substantially. I am certainly minded to support Brian Monteith's contention that further consultation is not required; to consult further would mean unnecessary costs and bureaucracy. There might be points of which I am not aware, so if something has changed materially, which would stop the bill proceeding, members should bring that to the table now.
**Tommy Sheridan:** It would be a tribute to the operation and machinery of Parliament if we allowed the bill a fair wind—that would show that we are not willing to erect unnecessary bureaucratic barriers to ideas that have substantial support. I hope that I would say the same about a proposal that I did not support, although perhaps the fact that I support the proposal has coloured my view. However, even if I did not support the proposal, I would still say that, given the evidence that we have heard and the closeness of the first consultation, the bill should be allowed to go forward and that we should have the debate. The debate is worth while and has to be heard.

**Michael McMahon:** To come from the converse position, I do not support the bill proposal, but I agree with Tommy Sheridan. The consultation has been perfectly adequate and we can consider the bill on the basis of the evidence that Mr Monteith will present, which is what Parliament is here to do. I will not agree on the bill with Mr Monteith but, as far as I am concerned, he can progress his bill.

**Paul Martin:** Has precedent been set whereby a member has progressed another member's bill proposal?

**The Convener:** This is the first time there has been such a short period between consultation and another member promoting a proposed bill.

**Paul Martin:** I agree that the bill should go forward, but perhaps the Procedures Committee should produce guidance. I make the point because people who responded to the original consultation exercise commented on a proposal for a member's bill in David Mundell's name. There may be issues surrounding that. I am not being facetious, but it is important that we clarify the issue with the Procedures Committee following today's decision.

**The Convener:** I am not sure that we need to do that because we had a debate in the chamber recently about non-Executive bills and how they are supported and taken forward. I am picking up from members that we are content that sufficient consultation has taken place and that the bill can proceed to the next stage, as proposed by Mr Monteith. Is that agreed?

**Members indicated agreement**