PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 30 June 2021

REVISED EDITION

Contents

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The Deputy President, **Ms Forrest**, took the Chair at 11.00 a.m., acknowledged the Traditional People and read Prayers.

TABLED PAPERS

Government Administration Committee A - Special Report

Dr Seidel presented the report of Government Administration Committee A in relation to a resolution to re-establish an inquiry initiated by the committee on its own motion into Rural Health in Tasmania.

Report received.

Government Administration Committee B - Special Report

Ms Rattray presented the report of Government Administration Committee B in relation to a resolution to re-establish an inquiry initiated by the committee on its own motion into Disability Services in Tasmania.

Report received.

LEAVE OF ABSENCE

Member for Derwent, Mr Farrell

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Madam Deputy President, I move -

> That the President be granted leave of absence from the service of the Council for this day's sitting.

Motion agreed to.

PRESENTATION OF ADDRESS-IN-REPLY

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, I have to inform the Council that Her Excellency the Governor will receive the Address-in-Reply at Government House at 3.30 p.m. tomorrow, Thursday 1 July 2021.

SUPPLY BILL (No. 1) 2021 (No. 10)
SUPPLY BILL (No. 2) 2021 (No. 11)

Third Reading

Bills read the third time.

TREASURY MISCELLANEOUS (COST OF LIVING AND AFFORDABLE HOUSING SUPPORT) BILL 2021 (No. 12)

Second Reading

Continued from 29 June 2021 (page 71).

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, last night I read the second reading speech and I adjourned the debate so that members could be briefed. I have now completed my second reading speech.

[11.08 a.m.]

Ms RATTRAY (McIntyre) - Madam Deputy President, I support these initiatives that have been put in place to support our communities. I believe they are reasonable and appropriate in relation to increasing the property threshold for dutiable value from $400 000 to $500 000 and also amending the First Home Owner Grant from $20 000 to $30 000. We all know that building a home is increasingly expensive. The First Home Owner Grant support is very important for our communities. Some argue that the initiative inflates the price. However, we know that the cost of building products is increasing and supply is becoming scarce and this in itself increases the cost so I also support that initiative.

Amending the Land Tax Act to allow the Commissioner of State Revenue to accept payment of land tax in three instalments where the amount of land tax payable in any financial year exceeds $500 - it is currently $1000, so I think that is a gain. Families are in financial stress. We know that 12 million people in Australia are in lockdown again due to the COVID-19 pandemic. That impacts on everybody; it does not just impact on those 12 million people.

I note that at breakfast this morning in the accommodation across the road where many northern members stay, there was very little activity. They had reduced numbers of people staying in that accommodation. I expect that that is multiplied right around Tasmania as we speak. To support any of our community in regard to these initiatives is totally appropriate.

I will make a comment about the land tax rating and that is to increase the tax-free threshold for land tax from $25 000 to $50 000 short of $1 with the middle tax band threshold now starting at $50 000; and increase the top tax band threshold of $350 000 to $400 000. In the briefing yesterday, we were told that this initiative will assist about 4100 people or properties. That is a significant number of properties that will now be excluded under these new arrangements should this piece of legislation pass through the House. I see no reason why it will not.

The question I asked yesterday was, there is a 50 per cent increase from $25 000 to $50 000 and yet from $350 000 to $400 000 it is a much smaller percentage of increase. It

would be useful to put the response to that on the public record. I believe it is something to do with policy and how many people it supports. If the Leader could put that on the record in your response to our second reading contributions that would be appreciated.

The MAIB duty amendments will apply from a date proclaimed so they are not immediate, yet the First Home Owner Grant and the other measures are 1 July.

Mr Willie - The EV vehicles are retrospective too.

Ms RATTRAY - Yes, the electric vehicles. I feel sure that the member for Hobart might have something to say about electric vehicles.

Mr Valentine - I might.

Mr Willie - He is not the only member who drives an electric vehicle.

Ms RATTRAY - I believe the member for Elwick now has a hybrid.

Mr Valentine - He is catching up.

Ms RATTRAY - The young gun is catching up to the more senior electric vehicle. That is in regard to insurance duty and I support that initiative. I am not entirely sure that I will be an electric vehicle owner or driver in the near future. I travel too many kilometres and I do not see myself plugging in somewhere in Mole Creek in the very near future, but who knows what might be in the future for the member for McIntyre?

One initiative that I congratulate the Government on is the quarterly vehicle registration payments. I have been asking for that on behalf of a former constituent Bob Campbell from Andover, who is now a constituent of the member for Prosser. Thank you very much. Bob has been requesting this initiative for as long as I have been in this place. We used to have quarterly arrangements. Is that correct? Somebody who has been here a very long time? Nobody is nodding up the back so they obviously have not been here as long as I have. We did have quarterly arrangements and then it was taken away to the six-monthly option of payment. Bob has been a strong advocate for this. Bob Campbell, this one is for you. I would like to think that my lobbying has assisted in this initiative by the Government.

I am happy for the member for Prosser to take some credit being a member of the Government because Bob has probably contacted you also. He is very active in lobbying his local member. Bob was a candidate in the 2004 Legislative Council election for the seat of Apsley. This was one of his initiatives he was going to progress should he be here where I am standing today, or where the member for Prosser is sitting today; one or the other.

The take-home message from that is you never give up, because we can influence the government of the day and whether it be pandemic-related and looking for relief for our communities when it comes to their financial commitments or whatever that may be, it is only a good thing we have these options for the people we represent. I feel sure Bob knows about this initiative as we speak. If not, I am happy to ring Bob and have a chat and I know the member for Prosser would probably have more chats with him now and see him from time to time.

Ms Howlett - I will certainly send it to him today.

Ms RATTRAY - Thank you. In light of that I do support the initiatives here. As I said, providing financial relief and being able to support our communities is very important. Whatever I can do as a member of this House in supporting the Government's initiative in this particular area then I am happy to support it.

[11.17 a.m.]

Ms ARMITAGE (Launceston) - Madam Deputy President, before I go into any detail I will ask a question with regard to the last comments by the member for McIntyre with regard to the quarterly payments. My understanding is when it was six monthly payments it actually cost slightly more. My question is how much more per annum will it actually cost people to have it quarterly as opposed to if they paid in one hit? If it is going to cost them substantially more, and I think it was a reasonable amount more for six monthly, it may actually be more detriment than benefit to people with financial hardship.

I support the initiatives before us. Anything that helps people in these difficult times is certainly worthwhile. Some of them are retrospective and I accept the reason behind it with the amendments to the first home buyer duty concession and the pensioner concession being 16 March 2021 and the amendments to the First Home Owner Grant respectively from 1 April 2021.

As the Leader will understand, I cannot let it go without actually making some comments on the First Home Owner Grant, which I find is great. I actually do not like the words 'first home owner', because it is not quite accurate - it is first home builder. The first home owner should also support those people in the community who cannot afford to build a new home, but can buy their first home. While I do accept there are concessions to do with stamp duty and am grateful for that and think it is great, I also notice the dutiable value of property threshold from $400 000 to $500 000 for eligible transactions for their first homebuyer. You will never convince me that giving a first homebuyer grant increases the property price. Having been a real estate agent I can remember if I had a house for sale at $400 000 and a first homebuyer looked at it, the owners did not put it up by $30 000 or $40 000, the price was the price.

Many of those first homebuyers used that towards their deposit and it was a great help to them. Therefore, I will never agree with the government - whichever party is in power. I have had the argument with previous governments because I believe it is inappropriate to describe the funding as a first homebuyer grant. It should be described as a first home builder grant, because first homebuyers are not eligible.

I support capping the Motor Accidents Insurance Board premium at $20 per annum and allowing the duty to be calculated in line with the vehicle's registration renewal period, whilst still enabling the existing calculation.

I know that the member for Hobart will comment on the exclusions to providing the two-year waiver of duty on the purchase on new and second-hand electric and hydrogen fuel cell vehicles. That is his area of expertise and I will comment on that initiative later when he moves his amendment.

I support the initiatives and I appreciate the Government bringing them forward in a timely manner. I will support the amendments.

[11.21 a.m.]

Mr VALENTINE (Hobart) - Madam Deputy President, I consider there would not be many complaints about the various measures that are being taken in this bill. One would hope for a more comprehensive review of land tax. In comparison with other states we are raking it in, and of course as Tasmania becomes more attractive the prices will increase. That is another reason to review it. Nevertheless, I thank the Government for at least taking that step and I will support it.

Turning to first homebuyers grants, there is that argument that they only add to the cost of the house because the builders and others involved take advantage of it and price accordingly. I do not see that there is any way to address that.

Ms Armitage - That argument could also apply to building a home as opposed to buying a home that is already built. I fail to see the differences between not allowing it for a first homebuyer as opposed to a builder.

Mr VALENTINE - That is a fair comment and perhaps should be considered. I know you raise this every time, and possibly in the future first homebuyers will not be discriminated against.

Ms Armitage - Maybe one day. I'll be surprised.

Mr VALENTINE - I am concerned about one aspect regarding electric vehicles. It is the part of the bill that deals with saying what a vehicle is, and it is a very simple matter. It is in clause 7, amending section 199 of the principal act (exemptions). It talks about an application to register a motor vehicle or a notice of change of beneficial ownership of a motor vehicle if the motor vehicle is a light vehicle within the meaning of the Vehicle and Traffic Act 1999 other than a trailer, a motorcycle or agricultural machine. Given that electric motorcycles are increasingly available, I question why the same consideration would not be given to them.

Electric motorcycles reduce congestion. They also reduce emissions - and after all, there are a lot of two-stroke motorcycles around which put more pollution into the atmosphere than a lot of cars would. I ask that question. Why have motorcycles been sectioned out of this? I will listen to the Leader's response. I can move it when we get to the clause in Committee, I am presuming, Madam Deputy President? However, I will listen to the Leader's response first before choosing to move an amendment.

I want to really understand the reason behind this. It just seems to me to be too discriminatory. Maybe it is something to do with the fact that it is a lot more money to outlay for the Government in what it is missing out on with MAIB, or whatever it might be. I do not know what the answers are. I would just like to know and hear from the Government the exact reasoning behind sectioning out motorcycles. It is as simple as that.

I agree with the remainder of the bill. It is just that small issue for me and I would like the Leader to address that in her reply. I do know that officers may have done a little bit more on that and there may be some information to provide.

[11.26 a.m.]

Mr WILLIE (Elwick) - Madam Deputy President, a short contribution and a few questions from me. Other members have not really talked too much about the retrospective nature of this bill, which as a general rule of thumb is not a good idea. There are some messy provisions within this bill. It is not a problem for land tax because those bills go out in October, but with the EV waiver for people who have purchased in that period of time will they get a refund? Can the Government explain how that will work?

Also, some home owners may already have received $20 000. Do they then get a further $10 000? Could the Government could explain those two provisions? Generally, we should avoid retrospective legislation if possible.

I understand the measures in this are going to alleviate cost of living for quite a number of households so the principle of the bill is fine, it is just the way it is being implemented.

[11.27 a.m.]

Ms WEBB (Nelson) - Madam Deputy President, this will not be a long contribution. I wanted to bring up some things that were covered in the briefing that you were interested to hear about. I will just put them on the record here and see if we can have them addressed in the Leader's reply.

One was a query around the quantum of revenue that has been foregone by the Government across these measures. As part of that further details might be useful. Presumably it has been modelled for each of them. How many people? And a breakdown of where that foregone revenue was going to fall across the different measures. How many Tasmanians potentially will be accessing or being supported by these measures? That would be useful detail to have so we can understand the modelling that was done and the impact on revenue foregone for the state.

That was something from the briefing I wanted to get on the record. Other than that, I am very pleased to see the ability to do the bill smoothing with the vehicle registrations. It is something that the community services sector has been calling for for many years. It is a really standard way to support people on low incomes to be able to better manage the costs of living, to be able to smooth bills across a year rather than have them come in a big whack or even two big whacks.

My concern about this has already been raised by the member for Launceston, but I will reiterate it. If we make it more expensive to do that it is really counterproductive. The expectation is that this is a measure mostly designed to not help people like me, people like others in this Chamber who can quite readily pay a bill when it arrives once a year. If the idea is to assist people on the lowest incomes better smooth and manage their bills, why would we penalise them by making that a more expensive way to pay the cost of that bill?

We may not be able to control whether private companies do that sort of thing, but certainly as a state and as a government we can decide whether we do that sort of thing. If it is that this quarterly arrangement is more expensive then I would like to know whether it is more expensive to do it that way than pay six-monthly. I would like to know how it is in relation to the one-off annual payment.

It would be quite appalling if we saw our Government applying a poverty penalty to vehicle registrations so people have to pay for the privilege of smoothing their bills because they happen to be on very low incomes.

Other than that, while all the measures in the bill seem reasonable and helpful to those who will be able to access them, the point I would also like to make is that for people on genuinely very low incomes, very few of these things will apply other than the vehicle registrations smoothed out. People on very low incomes, Tasmanians living very close to the bone, will have no benefit from these things. It is not to say we should not do them, it is good to help people across a variety of income categories. The reality is most of these measures will assist people on medium to high incomes have lower costs across various things, rather than people on very low incomes. It is important to also maintain a focus. Just because we call something cost of living it does not mean it is about people who are on low incomes, it can actually mean helping people out who are already fairly comfortable.

[11.31 a.m.]

Mrs HISCUTT - Madam Deputy President, I inform members there has been a request from a member for the minister for Planning to address us in person, and that will occur at 12 o'clock. Whatever we are doing at about 11.50 a.m. we will adjourn until the ringing of the division bells to enable that briefing. The minister is available at 12 o'clock for a short time.

We started with the member for McIntyre: why a 50 per cent increase in tax-free threshold is a lesser incentive in the top tax band. The different changes in thresholds was considered to be an appropriate balance between a reduction in revenue and benefit to taxpayers. Land tax is an important source of revenue for the state which is used to provide essential services including hospitals, police and emergency services, schools and roads.

Based on 2020-21 data, increasing the tax-free threshold to $50 000 will mean that nearly 7000 taxpayers no longer have to pay land tax liability. This is an additional 4122 taxpayers compared to those who fall under the current $25 000 tax-free threshold. The increase in tax-free threshold will benefit all taxpayers by making the first $50 000 of their land tax land value, land tax free. Based on a median taxpayer holding property with an unimproved land value of $144 000 this results in a saving of approximately $138. The top tax threshold increases to $400 000. Increasing the top tax threshold by $50 000 balances a reduction in revenue with providing a benefit to around 2200 taxpayers. The medium land tax account in Tasmania is $144 000 which means a regular land taxpayer including shackies and mum and dad landlords, will comfortably fall below the top tax bracket.

Member for Launceston, I note your usual argument. Your questions was, how much more will it cost people to pay their vehicle registration in equal payments. This bill is focused on the MAIB duty, which is only one component of vehicle registration costs, the remainder of which are currently under review by the Department of State Growth.

Member for Hobart, the Government announced the policy to incentivise Tasmanians to purchase a new or second-hand electric or hydrogen cell motor vehicle. This is so more Tasmanians can benefit from the transition to electric vehicles with our clean low-cost and reliable renewable energy, reduce reliance on imported liquid fuels and reduce transport emissions, in large associated with passenger transport and commercial motor vehicles. However, the higher up-front costs have been identified as one of the main barriers for those wishing to make the switch to an electric vehicle. Hence, the aim was to increase the number

of EV and hydrogen cell passenger and commercial motor vehicles in the Tasmanian vehicle fleet and the stamp duty waiver has been designed to this effect.

This policy is in line with a number of other jurisdictions. To date, other jurisdictions have not incentivised the purchase of electric motorcycles though we understand some other states continue to monitor this policy position.

I do have some more information to seek. I will deliver part of the response to the member for Elwick's questions but there is still some more to come.

The response to the question regarding retrospective provisions applying to electric vehicle provisions and fleet and First Home Owner Grants.

The retrospective part: any vehicle registered between 1 July 2021 and the date of royal assent will be assessed under the existing law by the Department of State Growth. That is, duty will be assessed at the standard rate. All eligible vehicles will be subsequently reassessed and the duty difference refunded by the State Revenue Office once the bill receives royal assent. Concurrently, taxpayers who registered their vehicles from 1 July 2021 but before royal assent will be entitled to the financial benefit of the exemption. They will be able to apply to have that refunded.

First Home Owner Grant: will people who have applied for the first Home Owner Grant prior to royal assent but from 1 April 2021 receive the $30 000? Yes. All eligible applicants who have applied for the First Home Owner Grant from 1 April 2021 will receive $30 000 assuming they satisfy the relevant conditions of the First Home Owner Grant Act 2000. The State Revenue Office has processed all applications under the existing law. That is, a grant for $20 000 has been paid. However, once the bill receives royal assent eligible applicants will be paid an additional $10 000. Consequently, applicants will receive a full $30 000 despite applying before royal assent. There is a bit of a changeover there that is happening.

The member for Nelson asked a question about the registration being paid quarterly. I think I have covered that in an answer to another member.

Ms Webb - Did you answer my questions about whether it would be more than the annual fee or more than the six-monthly fee?

Mrs HISCUTT - I will just find the answer I gave before.

Ms Armitage - I was not satisfied with the previous answer that the Leader is looking for again. I am going to ask for some clarification.

Madam DEPUTY PRESIDENT - In the Committee stage if she does not answer it now. She might have an answer, hopefully.

Ms Armitage - The answer was not satisfactory as far as I was concerned so I have -

Madam DEPUTY PRESIDENT - In the Committee stage is the time if she does not answer it in response to the member for Nelson.

Mrs HISCUTT - I will tidy up the answer to that one. While my adviser is doing that I will move onto the last question.

The member for Nelson also asked what is the total cost of the measures in this bill? I will run through them for you. With regard to the land tax threshold, as announced in the Government's policy delivering land tax relief for landowners and shackies dated 15 April 2021, the resetting of land tax thresholds is expected to cost around $56.4 million over four years.

Reducing penalty interest and allowing payments by instalments. As announced in the Government's policy, delivering land tax relief for landowners and shackies dated 15 April 2021, the halving of the premium rate of interest charged on unpaid tax and allowing land tax bills over $500 to be paid in three installments annually, is expected to cost around $500 000 per annum, or $2 million over four years.

The First Home Owner Grant increase: under the Government's policy, First Home Owner Grant boost from $20 000 to $30 000 released, on 17 April. The cost of this initiative is estimated at $7.5 million.

The first home buyer and pensioner duty concessions: the Government's policy was announced in the Premier's Address on 6 March 2021. There is expected to be an additional $6.8 million in revenue forgone as a result of this measure in 2021-22.

The electric vehicle waiver: the Government's policy taking further climate action was released on 29 April 2021. The waiver of duty on electric and hydrogen fuel cell vehicles is forecast to reduce motor vehicle duty revenue collected by approximately $1.6 million over the two years from 1 July 2021.

With regards to the MAIB duty, under the Government's policy supporting the community sector and easing cost of living pressures, released on 27 April 2021, the Government committed to introduce the option to pay car registration quarterly. As a result, in MAIB duty will be capped at an annual amount, with revenue collected on light and heavy vehicles estimated to reduce by approximately $3.5 million annually.

And I have one more question I believe. So, the two questions asked by the member for Launceston and the member for Nelson. As I mentioned, details are still being finalised, but the new fee structure will be simpler with one admin fee proposed to be kept the same as for six months to spread over the four quarters. For information, an administration fee of a total of $16.20 per annum for those paying six-monthly, and for concession holders of $8.05 per annum. It is still being reviewed. If this remained the total fee it would be the same for quarterly renewals - about $4.05 per quarter, or for a concession holder $2.03. This is subject to indexation and will increase on 1 August to $4.13 and $2.12 respectively.

Bill read the second time.

TREASURY MISCELLANEOUS (COST OF LIVING AND AFFORDABLE HOUSING SUPPORT) BILL 2021 (No. 12)

In Committee

Clause 1 -
Short title

Ms FORREST - Madam Deputy Chair, I take this opportunity to speak on a bill that I would never let go normally in the past. You could not expect me not to in some respects. I will probably take about 10 minutes, so that would work well for the Leader.

Moving to the content of this bill, I have mixed feelings. One can certainly not assert that the Government does not keep its promises, however. On one hand there are some bits that continue policies that have already not worked. The first homebuyers grant was, as all independent economists have been saying for years, nothing more than a first home vendor's grant.

Fortunately, the Government has seen the effect on prices and restricted the bill to funds for new builds only. But the effect is the same. The flood of money has simply caused prices to rise faster than they otherwise would, taking account of all of the other factors. Sure, it helps the first home builders into the market, but if it is a market where prices are inflated by the grant itself then is there anyone out there who still believes these grants do not push up prices? There may be a few but they are certainly in the minority. It is not backed by the evidence from nearly all economists.

We need to acknowledge how markets actually work. Just because the first home builder has received the grant it does not necessarily mean they are the ones who receive the economic benefit. If prices rise then the benefit is received by the builder who built the house. Some might argue that does not matter but we are trying to help people into homes, not necessarily help builders make more money.

On the matter of land tax changes, I am disappointed we do not get to see - at this stage anyway - how the revenue change will affect the Government's fiscal position as all indications are, if the Fiscal Sustainability Report 2021 is any guide, that we will be running increasing deficits into the future. I guess we will have to wait for the budget.

It is not just our Fiscal Sustainability Report that has made projections of a possible future. The federal government this week released its own intergenerational report setting out how none of us are likely to see another federal government cash surplus in our lifetimes. That is even for some of the younger members of the Chamber I think that applies to, not just older members. It is annoying to have to address piecemeal changes without seeing a wider picture that a budget and three years of forward Estimates bring to the table.

Raising the land tax threshold is always good politics, but is it good economics? Just for a bit of history, I need to clarify my comments perhaps. Land is crucial to our very survival. The way it is dealt with by public policy is crucially important. The way land has been dealt with over time tells us a lot about ourselves and about our history. Not only did we, the new settlers to this country, steal the land belonging to the First Nations People, we sold it in order

to fund government operations. That is how governments funded themselves in the early days. Not completely, but land sales were an important contributor to government coffers.

I suppose you could call it 'Operation Fencing', the largest off-loading of stolen property in our history. By the late nineteenth century, 'Operation Fencing' had resulted in wealthy landowners owning large tracts of land. The large tracts of under-utilised land on the fringes of growing towns and cities were a ready source of riches via capital gains for the wealthy landowners. The landowners who were well represented in various parliaments of the day were resistant to change that might interfere with their nice little earner. Land taxes were gradually introduced at a state level and also in the early twentieth century at a federal level, not only to raise revenue, but to back up large tracts of under-utilised land for public good. That principle can, and should, prevail.

Nothing much has changed. Large parcels of land have been held for speculative purposes, where self-interest cares little about the public good. This is where sensible land taxes have a role to play.

Recently, the Victorian Government has seen fit to try to claw back some of the enormous gains being made by developers where land is being rezoned and I applaud that policy. All the talk of housing shortages and house price inflation ignores the fundamental reason for it. We need to unbundle the problem, into land on one hand and buildings on the other, and deal with them separately from a policy perspective. The reason for our current housing problems is due to issues around land. The need for builders to erect structures is part of it, but the real issue is the land. Who pays for the associated infrastructure, and how do they do so? Who receives the benefits of land price rises, and who pays? Right now, as it has been throughout history, the benefits accrue to a few. This needs to change as a prerequisite for closing an ever-widening gap between the housing haves and the housing have-nots.

I have spoken to the Premier about this and hope we may see some consideration on these matters in the not too distant future. Land tax is an efficient tax, in that if it is applied uniformly across as wide base as possible, it does not distort economic activity. When applied at a higher rate across a narrower base, it distorts economic decision-making and people try to avoid it. That is what we are seeing here, and it is contributing to our housing problem. They might use land unproductively - as in the classic case of overinvestment on residential housing built on land that is free from land tax. Few people deny that the tax-protected status of housing, using a principal place of residence which is not only free from land tax but also free of the CGT, means that we overspend and speculate on housing at the expense of more productive sectors in the real economy.

The Government recognises the distorting effects of its land tax policies, which tax land with rental properties when principal residents on expensive land are free of land tax. The minor relief for some rental property owners is welcome, but the overall distorting policy remains. Taxes are only one revenue-raising mechanism but they can still influence behaviour, and this is why I welcome the duty initiative for electric vehicles. It nudges people in the right direction. It is important that we recognise the role of taxes in good public policy.

The last 10 years have been a mammoth disappoint for sensible public policy designed to change behaviour and nudge the economy in the right direction. That is not always possible with self-interest often trumping the public interest. The classic case was labelling the carbon

tax as the great big tax on everything and claiming it was going to lead to a $100 roast, for example. I fear for our future, with the now Deputy Prime Minister back in the seat.

The so-called carbon tax was designed to change behaviour, to nudge the economy in the right direction - because sure as hell if it was left to self-interest and market forces it was not going to occur. That is why I welcome the EV changes.

As the member for Nelson said in noting the Governor's speech, we need to focus more on outcomes, not just the budget bottom line. We can spend too much time focusing on the bottom line and not the outcomes, and I am not sure this bill does either. Its focus is mainly pleasing voters. I make those comments because I believe we have missed an opportunity. However, I live in eternal hope that one day we will achieve it.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy Chair, I move -

That we report progress.

Motion agreed to.

Progress reported; Committee to sit again.

SUSPENSION OF SITTING

[11.53 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, I move -

That the sitting be suspended until the ringing of the division bells.

This is for the purposes of the briefing by the minister on the LUPA bill.

Sitting suspended from 11.54 a.m. to 12.43 p.m.

TREASURY MISCELLANEOUS (COST OF LIVING AND AFFORDABLE HOUSING SUPPORT) BILL 2021 (No. 12)

In Committee

Resumed from above.

Clause 1 agreed to.

Clause 2 and 3 agreed to.

Clauses 4 and 5 agreed to.

Clause 6 agreed to.

Clause 7 -
Section 199 amended (Exemptions)

Mr VALENTINE - As I outlined in my second reading speech, I believe it is discriminatory to exclude motorcycles when other light vehicles are included. I understand the reference to 'other than a trailer … or agricultural machine', given there is certain revenue that is being forgone. The amendment that I want to move relates to motorcycles. I will read the amendment.

Madam Deputy Chair, I move the following amendment -

Page 6 proposed new paragraph (db), subparagraph (i), subparagraph (A) -

Leave out 'motor cycle'.

I do not believe large numbers of people will take this up if 'motorcycle' is included in the definition of light vehicles, because electric motorcycles are not prolific on the new motorcycle scene. We might see an explosion of them in two years, but I doubt it is going to increase significantly within that two-year period. I do not think it would be more expensive for the Government, as commuters might choose to get an electric motorbike instead of buying a far more expensive electric car. There is that opportunity. It encourages use of more efficient vehicles; there is less wear and tear on pavement when it comes to maintenance; there is less congestion; and there is less pollution than would occur with two-stroke motorcycles where oil is part of their fuel. That is the difference between a two-stroke and a four-stroke vehicle. Two- stroke vehicles have a mix of oil with the petroleum to lubricate all the parts.

I do not know what the pollution figures are for two-stroke motors but I suggest it is significantly more for four-stroke motors. The fact that there are range issues for electric motorbikes might mean that they are more likely to be taken up by people in more urban areas and CBDs, rather than people using them for long-range motorcycle riding. I am reasonably sure there are less motorcycle accidents in congested areas than there are on the open road. I know motorcycles are over-represented in accident statistics, and that is probably why the MAIB premium is so much higher. Electric motorcycles are more suited to CBD style environments, and so there are fewer accidents in those environments as they are at reduced speeds.

I cannot see any detriment in including electric motorcycles. I really cannot, and I would encourage the Government to really consider this. It is such a small thing. I think it would gain significant kudos from the public to include them. Why discriminate, is the question.

I leave it for members to consider as to why motorcycles are excluded at the moment and encourage them to see them included.

Mrs HISCUTT - Just to reiterate, the policy to increase the number of EV and hydrogen cell passenger and commercial vehicles is in line with a number of other jurisdictions.

To date, other jurisdictions have not incentivised the purchase of electric motorcycles though we understand some other states continue to monitor that policy. As the member for Hobart said, it is a small thing. In light of that the Government does not oppose the amendment. We would rather it not go in but we certainly do not oppose it.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 8 and 9 agreed to.

Clauses 10 and 11 agreed to.

Clauses 12 and 13 agreed to.

Clauses 14 and 15 agreed to.

Clauses 16 and 17 agreed to.

Clauses 18 and 19 agreed to.

Clause 20 agreed to.

Bill reported with amendment, report adopted.

LAND USE PLANNING AND APPROVALS AMENDMENT (TASMANIAN PLANNING SCHEME MODIFICATION) BILL 2021 (No. 13)

Second Reading

[12.57 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, I move -

That this bill be read a second time.

The planning reform program is working to create a planning system that is policy-led, evidence-based, strategically guided and kept up to date. The first part of the reform is the full implementation of the single statewide planning scheme, the Tasmanian Planning Scheme.

The Tasmanian Planning Scheme is currently in effect with several municipalities across the three regions, with others to come online as each Local Provisions Schedule is approved by the independent Tasmanian Planning Commission. In the coming years, phase 2 of the planning reform program will deliver a suite of planning policies (the Tasmanian Planning Policies) and a robust and sustainable regional planning framework, including comprehensive reviews of all three current regional land use strategies.

Meanwhile, the Government is refining current planning processes to ensure the planning system is efficient and responsive and we can achieve a fair and orderly transition to the new planning system.

This amendment bill makes a number of amendments to the Land Use Planning and Approvals Act 1993. These amendments are simple in what they aim to achieve, but are quite technical in nature as they relate to the detailed administrative and assessment process under

the LUPA act. These amendments propose changes to some of the current assessment processes under the LUPA act which have been identified as essential improvements by the professional staff who operate and maintain the planning system.

While some processes are being simplified, the rigorous and independent assessment processes that Tasmanians have come to expect are maintained. The bill has been refined in processes to consultation with broad stakeholder groups, including: local councils, state agencies and authorities, professional industry, environmental and community groups and importantly, the independent Tasmanian Planning Commission.

These amendments deliver improvements to four areas of the planning system. First, the changes to the LUPA act improve processes for amending the State Planning Provisions - those planning rules that apply across all of Tasmania under the new Tasmanian Planning Scheme, also known as SPPs.

It is important that legislative processes provide for the appropriate maintenance, review and amendment of the SPPs now operating in several parts of the state. Such processes ensure improvement can be delivered and that the provisions remain contemporary and responsive to emerging issues.

The amendments, therefore, work to:

1. simplify processes for making minor amendments to the SPPs, and

2. introduce a process for making interim amendments to the SPPs, similar to the current interim planning directive process.

The criteria specified in the LUPA act for minor amendments to the SPPs encompass amendments ranging from typographical errors to alignment with state policies. However, the process for giving minor amendments effect is complex and can take up to six months.

These changes proposed in this bill create a distinction between minor amendments that are simple corrections or updates and those that clarify existing requirements or implement already approved policy changes in other instruments. The processes for making simple corrections such as fixing typographical or drafting areas in the SPPs or updating references to legislation is simplified by removing the need for broad consultation. A simplified process is appropriate and commensurate with the scope of these minor amendments.

For less straightforward minor amendments, such as those proposed to clarify and simplify the requirements in the SPPs without changing their policy intent, consultation with local councils and state agencies and authorities must occur.

For all minor amendments of the SPPs, advice as to whether or not the amendment meets the criteria must be sought from the independent commission.

Sitting suspended from 1 p.m. to 2.30 p.m.

STATEMENT BY DEPUTY PRESIDENT

Deb Torley - Tribute

Madam DEPUTY PRESIDENT - Honourable members, before I call on questions without notice today I want to advise members and officers of the retirement of Deb Torley who has been our Hansard monitor in the Legislative Council Chamber since late 2017.

Deb commenced in Hansard back in May 2004. She has worked as a transcriptionist and a monitor. It is Deb's last day today and she has made a decision to spend more time with her family, particularly her grandchildren and her new puppy, Louis. I can only commend those things as very good.

Deb has built a considerable knowledge of parliamentary practice and procedure during her time here. We would have been able to call on Deb if our Clerks called in sick.

I know her colleagues in Hansard will be very sorry to see her retire. Deb has been an extremely dedicated, reliable and conscientious member of the Hansard team.

Deb, we very much appreciate your valued assistance and support at an important time in our Chamber and as an important member of our team in this Chamber.

On behalf of all your friends here in the Legislative Council we wish you a long and very happy retirement. We acknowledge and thank you for all that you have done for us, so thank you.

Members Hear, hear.

Madam DEPUTY PRESIDENT - Deb has spent time with our new monitor, Gaye Mitchell, to ensure a smooth transition. I am sure you have noticed that going on in recent times. I can assure you we all look forward to working with Gaye as well.

I also advise that a special presentation of flowers was delivered to Deb this morning from all of us here at the Legislative Council. We wish you well, Deb, and thanks for your service.

QUESTIONS

COVID-19 - School Assemblies

Mr VALENTINE on behalf of Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.33 p.m.]

Madam Deputy President, I extend my congratulations to Deb too. I wish her well.

With regard to COVID-19 safe arrangements related to gatherings, I note that for indoor seated events where people have to be seated most of the time, the number of people that may be permitted at any time is up to the seating capacity of the premises in all seated areas, and

one person per two square metres in all unseated areas but no more than 2000 people. This has enabled the very welcome return to full capacity for theatres such as the Theatre Royal for performances and shows.

I understand some, if not all, schools currently are not permitted to hold school assemblies with all students in attendance even when the above restrictions can be complied with.

My questions are:

(1) what are the current COVID-19 safe requirements around gatherings in schools?

(2) Are all schools the same, public and non-public schools?

(3) Why are the restrictions limiting school assemblies to less than 100 per cent comparable to other venues for large gatherings?

(4) When is the restriction related to school assemblies likely to be eased to enable whole school assemblies?

ANSWER

Madam Deputy President, I thank the member for delivering that question on behalf of the member for Murchison.

The answer is:

(1) In line with Public Health advice the focus for schools is on maintaining physical distancing and effective hygiene measures. Assemblies are considered normal operational activities, in line with lessons and schools follow the one person per two square metre rule for adults and visitors. The one person per two square metre rule does not apply to students. This is in line with Public Health advice.

Where an activity is open to the broader community, such as an annual school production or fundraising event held on the school site, the activity is considered a gathering and must operate in accordance with the framework of COVID-19 Safe Events and Activities in Tasmania.

(2) The same Public Health advice applies to both government and non-government schools and education sectors within Tasmania have worked together when seeking advice from Public Health.

(3) Public Health advice is that school assemblies are part of normal operational activities, in line with lessons. Therefore, ordinary gathering limits and venue density rules apply to school assemblies. Schools follow the one person per two square metre rule for adults and visitors at normal operational activities.

The one person per two square metre rule does not apply to students. The number of adults and visitors permitted at normal operational

activities is determined by the calculation of the area, that is one adult per two square metres with a maximum of 250 adults. Teachers and school staff are counted as part of the 250 adults.

(4) The Department of Education is continuing to regularly review these arrangements in consultation with Public Health.

Department of Education - Statistics on Bullying and Assault Incidents in Tasmanian Schools

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

I am going to ask all of these questions again. This is from Estimates last year. It is getting beyond a joke.

During Estimates last year the former minister, Mr Rockliff, committed to providing figures for these questions:

(1) The figures held by the Department of Education related to the level of bullying in Tasmanian schools in 2016, 2017, 2018, 2019 and 2020.

(2) The number of student-on-student assaults or other incidents of physical violence that occurred in Tasmanian schools in 2016, 2017, 2018, 2019 and 2020.

(3) The number of student-on-teacher assaults, or other incidents of physical violence that had occurred in Tasmanian schools in 2016, 2017, 2018, 2019 and 2020.

(4) The number of workers compensation claims resulting from stress or other psychological injuries to Department of Education employees in 2016, 2017, 2018, 2019 and 2020.

(5) The number of suspensions for bullying, harassment, stalking of another student in 2016, 2017, 2018, 2019 and 2020.

(6) The number of suspensions for bullying, harassment, stalking of a teacher, or another staff member in 2016, 2017, 2018, 2019 and 2020.

(7) The total number of student suspensions in 2016, 2017, 2018, 2019 and 2020, including a breakdown by grade.

(8) The number of incidents occurring in schools reported to Police in 2016, 2017, 2018, 2019 and 2020.

(9) The number of sexual assaults reported in 2016, 2017, 2018, 2019 and 2020.

(10) The number of family violence notifications made by schools in 2016, 2017, 2018, 2019 and 2020.

(11) The number of child safety notifications made by schools in 2016, 2017, 2018, 2019 and 2020.

ANSWER

Madam Deputy President, I thank the member for again repeating that question. I can but apologise one more time. I am chasing as hard as I can.

Homeschooling - Assessment

Mr VALENTINE on behalf of Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

With regard to assessment of a parent or parents seeking approval to home school their children -

(1) What aspects are considered in determining eligibility of a parent or parents to homeschool their child or children?

(2) Are other service providers or organisations such as Child Safety Service consulted?

(a) If so, which agencies are consulted?

(b) If there is no consultation with other services or organisations undertaken, how is suitability determined?

(c) How is the risk assessment conducted?

ANSWER

Madam Deputy President, I thank the member again for asking that question on behalf of the member for Murchison.

The answer is:

(1) Home education in Tasmania is a valid and legal form of education under the Education Act of 2016. The Education Registrar is responsible for the regulatory process or the registration of students in home education. Prospective applicants must address the registration standards as outlined in the Education Regulations of 2017. The standards are focused on ensuring that the approved home education program meets diverse learning needs, outlines appropriate teaching and learning methodologies, provides education that relates to safety, health and wellbeing, provides for the development of interpersonal skills and environments that support the development of literacy and

numeracy, specifies how learning progress is to evaluated, and is provided by a suitable person.

While the standards generally relate to the educational components of the program, standard 3 requires, in part, a demonstration that the person providing the program thoroughly understands the areas of education to be provided.

(2) The homeschooling programs that are in place - the registrar may revoke that program if the registrar is satisfied that it is in the best interest of the child to do so. For example, if child safety is raised with the registrar as a concern by an external agency and that concern can be objectively confirmed, then the registrar can revoke the registration on the above grounds. In terms of new approvals there is no requirement under the legislation for the registrar to consult with other service providers or organisations, such as Child Safety, when approving a program, with eligibility determined in accordance with the registration standards as outlined in the Education Regulations 2017.

LAND USE PLANNING AND APPROVALS AMENDMENT (TASMANIAN PLANNING SCHEME MODIFICATION) BILL 2021 (No. 13)

Second Reading

Resumed from above.

[2.41 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, I will start from the paragraph that I left off from before.

To improve transparency, the changes require the advice of the commission to the minister and the minister's reasons for making the minor amendments to be made public. The draft bill also introduces a process for making interim arrangements to the SPPs similar to current interim planning directives.

Enabling interim amendments will mean that a proposed amendment to the SPPs can be brought into operation immediately and operate while it continues through the assessment processes already laid out in the legislation. The similar interim planning directive process has been used several times over recent years to enable immediate action on critical issues. Examples include introducing changes to the Bushfire-Prone Areas Code and temporary housing provisions to planning schemes.

Likewise, interim amendments of the SPPs will enable an immediate response to critical or significant planning issues, such as updating and implementing important natural or environmental hazard management requirements. However, while the intent is the same the bill introduces some key improvements on the interim planning directive process.

Clear criteria will limit the circumstances in which an interim amendment of SPPs may be considered. An interim amendment must be necessary to urgently address issues relating to natural or environmental hazards, public health or safety matters or any other matters that may

be prescribed in future regulations. Furthermore, it must be in the public interest to give effect to the amendment as soon as practicable.

Unlike interim planning directives, before determining whether to make an interim amendment to the SPPs consultation must occur with local councils and state agencies and authorities.

Advice from the independent commission will also be required and this advice must be considered in determining whether to make an interim amendment of the SPPs. For transparency, the advice of the commission and the minister's reasons for making the interim amendment must be made publicly available.

If made, an interim amendment would operate for 12 months unless it is deemed necessary to revoke it earlier or the draft amendment on which it is based has come into effect to replace the interim amendment. The interim amendment process also enables the assessment of the actual amendment to be informed and improved by the experience of implementing it as an interim amendment.

Secondly, the changes to the LUPA act improve processes for finalising the Local Provisions Schedules, each council's special application of the SPPs, plus their locally unique planning rules, as part of the Tasmanian Planning Scheme - also known as LPSs. So, the changes include:

(1) Amendments to processes for setting the date for the exhibition of the LPSs

(2) A new process for considering substantial modifications required by the commission

(3) Enabling amendments to interim planning schemes to be included in the final LPSs.

Importantly, these changes have been recommended by the independent commission to assist with finalising the LPSs. The current approach to setting a start date for exhibition of the draft LPS is not always long enough for councils to prepare, and is not flexible enough to accommodate potential administrative delays. Based on the advice of the commission, the bill provides for a more flexible exhibition start date and up to 21 days for a council to prepare for exhibition. Following exhibition of, and hearings into, a draft LPS, the commission must decide whether modifications are required and whether any of those modifications are substantial enough to require further public exhibition.

At the moment, any substantially modified part of a draft LPS is subject to the same public exhibition and assessment process, as a newly prepared draft LPS. That includes the full 60 days of exhibition. This additional process must be completed before the rest of the LPS, whether unmodified or with only minor modifications, can be approved. This process almost doubles the assessment times and delays, bringing into effect perhaps 95 per cent of the LPS while the remaining 5 per cent is put through the process again. Recently, the approval of the Meander Valley and Brighton draft LPSs were held up for about 12 months while modified parts were prepared, re-exhibited and assessed. The Central Coast and Glamorgan Spring Bay

draft LPSs are currently going through this process for a very small number of modifications to discrete areas within the municipalities.

The bill provides for a fairer and more manageable process by allowing the commission to approve an LPS, with any substantial modifications dealt with as the first draft amendment of that approved LPS. This process is an option that can only be used if the commission is satisfied that the LPS to be approved meets the LPS criteria, and that it is suitable for the modifications to be made by an amendment to the approved LPS.

Where this process is used, it will:

(1) Bring the Tasmanian Planning Scheme into effect earlier, while still allowing for substantial modifications to be finalised separately, but with the same level of assessment and public scrutiny.

(2) Limit the uncertainty associated with having an interim planning scheme in effect and perhaps subject to further amendments, at the same time as an almost approved LPS, for a period that can last up to 12 months.

(3) Result in more timely resolution of representations regarding non-substantial matters.

Opportunities for the public and government agencies to review and comment on the substantial modifications are retained through the normal LPS amendment process. There is no change to this process.

The last improvement this bill proposes to the LPS process is to enable the commission to include certain amendments it has approved to the current interim planning scheme in the final LPS, without putting them through a separate and second assessment process.

Throughout the assessment of draft LPSs, amendments to current interim planning schemes continue to be initiated by councils and assessed by the commission. This dual process will continue up until the date of the draft LPS being approved. While the LUPA act provides for some amendments to interim planning schemes to carry through into the LPS, there is no clear process for the inclusion of zone or code amendments approved during the assessment of the draft LPSs. Not including these changes could result in approved amendments needing to be resubmitted and reassessed as an amendment to the LPS after it is approved. This is unnecessary, inefficient and costly to all parties, including the commission.

The third set of changes the bill proposes to the LUPA act provides a fairer process for determining development applications during the transition to the new planning scheme. Currently the LUPA act requires a planning authority to make a decision on a development application by reference to the planning scheme that is in effect at the date the decision is made - not when the development application was lodged.

This approach could create confusion for the applicant and the community, as well as complications for a planning authority, if the planning scheme controls change mid-assessment.

The bill provides for a fairer approach by requiring a decision on a development application, as a general rule, to be made by reference to the planning scheme in effect when the application was validly lodged.

For those development applications lodged after the commission has directed a council to modify an amendment or a draft LPS, the current LUPA act requirement is retained. That is, decisions are to be made by reference to the provisions of the planning scheme as if the modifications required by the commission had come into effect.

However, a new seven-day transition period is also proposed for the planning authority to adjust its processes after the commission gives a direction regarding an amendment or a draft LPS.

Again, and importantly these changes do not alter the degree of public, local government or state agency involvement in reviewing and commenting on development applications. Instead it provides a much fairer process for decision-making as the planning requirements do not change part way through an assessment process.

Finally, the bill proposes changes to the LUPA act to establish a specific process that enables parts of the SPPs to continue to have effect prior to the finalisation of LPSs. The SPPs were made in early 2017 after a comprehensive and open public process and assessment by the independent commission. The SPPs deliver a number of improvements to the planning system. Since the making of the SPPs there has been growing interest in bringing some elements into effect earlier, particularly given the comprehensive public engagement in and assessment of the remaining draft LPSs before the Tasmanian Planning Scheme will have statewide effect.

The minister recently issued Interim Planning Directive No. 4 on the recommendation of the independent commission. The interim planning directive improved consistency across the planning system by bringing parts of the SPPs into effect through the remaining interim planning schemes. Those SPPs brought into effect through IPD 4 include some of the administrative and general provisions such as exemptions and the requirements for dwellings in the general residential zone and in the residential zone. Again, these provisions are already approved, and in fact operating, in several parts of the state as part of the Tasmanian Planning Scheme.

Draft planning directives from which interim planning directives are derived need to be publicly exhibited and assessed by the commission. However, in this instance the process would require duplicate assessment of the SPPs which is inefficient and costly for the community, industry, and local and state government.

The SPPs have already been subject to public exhibition and independent review by the commission and then approved in 2017. The bill removes the need to assess a draft planning directive specifically related to these components of the SPPs, as this process has already occurred. Consequently, the proposed change does not alter the degree of public, local government, or state agency involvement as consultation and a determination of the SPPs has already occurred.

If there are concerns with the SPPs these can be addressed through the statutory review processes that are already required by the legislation, including the five-yearly statutory review to commence in early 2022.

The bill proposes some simple but significant amendments. While the Tasmanian Planning Scheme is in effect in several council areas and all but two of the LPSs lodged for assessment some months ago, we have found a number of ways to improve the process. The amendments in this bill also work to enable the planning system to respond to urgent or emerging planning issues and new information, to simplify and bring more certainty to development assessment processes during the transition to the new system and ensure the transition is fair and orderly.

As an aside, in my role as the member for Montgomery, I have rung my three councils and all councils are quite happy with the bill as it stands.

I commend the bill to the House.

[2.55 p.m.]

Mr VALENTINE (Hobart) - Madam Deputy President, I have been in the planning area for about 29 years and it continues to get more and more complex. That is largely due to the single statewide planning scheme that is in the process of being implemented. I understand that entirely and it has caused interim planning schemes to be brought into play as part of that pathway.

When I receive a bill like this I am concerned to make sure the people who are going to be affected by it - which are not only planners and developers, it is mostly the members of the public that end up wearing any planning mistakes made. Buildings can be built and can last over 100 years, unless it is like some other parts of the world, where they fall down horribly prematurely. Once a building is up, the community has to live with that so it is important for us as a parliament, this House, this House of review, to make sure what we are passing is fair, reasonable and proper.

We have just heard this particular bill changes the process for minor State Planning Provisions amendments and has a process for urgent amendments to the State Planning Provisions. It has a process for substantial changes to Local Provisions Schedules. It also has a process for including interim planning scheme amendments into draft Local Provisions Schedules and also changes the process for determining planning applications during transition to the statewide planning scheme. One other is a process to allow the minister to direct that certain statewide planning provisions be included in interim planning schemes.

That covers quite a significant area and while some of them are termed minor this, minor that, my concern is that due process is followed and the proper consultation is had with the various players. I have been made aware of a number of things people have concerns over and, as the member was saying, she consulted with her three councils. I only have one council to consult with and my electorate only covers half that area, part of their area, but I received a copy of their submission on the draft Land Use Planning and Approvals Amendment Bill 2020 and Housing Land Supply Amendment Bill 2020 so I want to read a couple of the concerns they have. The first two I think have been taken care of. The first is:

> The Minister is not required to consult with planning authorities prior to making a 'minor amendment' to the SPPs which may impact on LPSs ...

They go on to talk about certain sections of the bill and that it states that the minister may consult with planning authorities; that it was a discretion, section 10A of the Acts Interpretation Act 1931:

> The amendments could potentially have a significant impact and it is important that planning authorities are consulted. It is therefore proposed that in s.30NA(2) that the Minister must consult with planning authorities.

I believe that change has been made so they have been listened to.

The second issue they had was that 'there is also no requirement to consult with the Commission for minor amendments'. They go through and state where - that is draft section 30NA(3) - it 'states that the Minister "may" consult. If the Minister chooses not to consult, as he or she would be entitled to do, then this process would effectively become unilateral. This is contrary to the information package which you have circulated.' They point to a diagram. 'It is proposed that "may" is changed to 'must'. I believe that change was made as well.

> Similarly, for interim amendments of the [State Planning Provisions] in draft s.30NB, the Minister "may" consult with the Commission. For the reasons stated above, it is proposed that this is changed to "must".

I do not think that was changed to 'must'. I stand to be corrected but it is something that was requested. I am interested to know, Leader, why that may not have been changed.

They had concerns about section 30NB:

> … there is no requirement to consult with planning authorities. If nothing else, from a practical point of view for planning authorities in communicating with developers and determination of development applications, there should be consultation of proposed amendments to [State Planning Provisions]. Given that planning authorities have the practical experience in implementing the [State Planning Provisions], the failure to consult with planning authorities could lead to poor outcomes.

Again, I am not 100 per cent sure that that was agreed with and whether notice was taken of that concern. Perhaps the Leader could inform us as to what action was taken in that regard.

They also had concerns about substantial modifications of draft Local Provisions Schedules addressed in draft section 35KB:

> … we reiterate the concerns which have been raised with you previously, that we anticipate that this may lead to poor planning outcomes. This is less of a concern for contemplated changes to zones, but more of a significant risk for the application of codes or policy-type changes to a draft [Local Provisions Schedule]. It is proposed as an alternative that the subsequent public notification and feedback process is truncated to an extent, so that the implementation of the LPSs is expedited.

Another concern:

> The proposed changes to s.51 are broadly welcomed and will address some of the difficulties we have experienced when amendments to a scheme commence after an application has been made. However, we repeat our concerns for the scenario where a 'substantial modification' is required to an LPS. To make the substantial modification apply irrespective of whether or not it has been made as an amendment to the LPS, undermines the public notification and assessment by the Commission of the substantial modification. Again, we anticipate that this may result in poor planning outcomes.

I think another is inconsequential but I will mention it just to make sure that it was noted:

> It is noted that the words 'is made' have been omitted from draft s.51(3C)(a) …

which I cannot find in this version because I think it is a different version -

> … after 'on the day on which the decision'.

I think it was just picking up a bit of a typo there. I am not sure which section that is in now in the bill as to whether that particular concern has been dealt with.

The final one is on page 43 of this bill that we have before us for those who may be trying to follow what I am saying:

> The proposed amendment to clause 3 of Schedule 6 by inserting (2A) to (2D) for the amendment of planning directives is not supported. We repeat our earlier comments:
>
> > To bring parts of the SPPs into the interim schemes is fraught with difficulty and may have unintended consequences. Some of the SPP provisions may not function effectively with the interim schemes given they are different schemes, and significantly different between regions. There should at least be some process for assessment and a chance for planning authorities to make comments to ensure that any directives bringing forward SPPs actually work with the interim schemes.
> >
> > In addition this proposal would deny planning authorities the opportunity provided under s.35G of the Act to notify the Minister as to whether amendment of SPPs is required.

You can see that they had some very significant concerns. Some of them will have been addressed, I am sure of that, but I would appreciate an understanding with respect to the Hobart City Council submission of 5 February 2021 - there are eight sections there that are dealt with - as to which ones of those were taken on board and worked with.

The other situation is the Local Government Association of Tasmania, if we go to their overall comments in their letter:

> The comments received by LGAT demonstrate that, broadly speaking, concerns on both of the amendment bills were low and at least one council felt that the amendments were reasonable and did not warrant formal submission. This is especially the case for the draft *Housing Land Supply Amendment Bill 2020*, where no concerns were received. Most aspects of the draft *Land Use Planning and Approvals Amendment (Tasmania Planning Scheme Modification) Bill 2020* were supported, with concerns focused on specific components, discussed below.

One of their main components was the fact it needs to be in plain English so that people can understand it, read it and absorb it. The law is not always in plain English and I am sure that everyone in this Chamber probably understands why. That is a concern of the Local Government Association of Tasmania.

Ms Rattray - It also acknowledges that it needs to be robust as well. You might be getting to that part but you have stolen my thunder there.

Mr VALENTINE - That is right. I am sorry. I am reading some of these concerns for a particular reason and I need a little guidance in a way. I do not want to stop members here from doing their second reading speech by moving that we adjourn for the purposes of a short inquiry process. I am not talking about something that is extremely long; I am talking about the people who have made representations to us - it is confusing and most people would understand when you read this bill it is confusing. It takes a lot to understand it as it deals with so much.

It may be that some are jumping at shadows, it may not. It may be that they do have significant concerns so a short inquiry process might give us the opportunity to have clarification provided and make sure that what it is we are actually passing today, if we were to do so, is fair and reasonable and does not have any unintended consequences. A short inquiry process - an SIP - does not mean it goes out for months. It would go through the associated administrative committee, which would be Administration Committee A, I presume. I seek some guidance about whether I could do that clause 1 in Committee, or whether I have to do it during my current presentation?

Madam DEPUTY PRESIDENT - Is the member seeking to give other members a chance to speak?

Mr VALENTINE - When we have done this before, others have complained they did not have a chance to speak that day because it was being dealt with that day. They would, no doubt, get that opportunity when it came back to the House but I did not want to fetter other people's opportunity to speak. That was my concern. Would it be more appropriate for me to move this on clause 1?

Madam DEPUTY PRESIDENT - If you want to test the Floor now, you can seek to do so, and members can speak on a proposal such as that.

I need to clarify whether everyone else has a chance to speak on the principle, which is still the important part of this debate - whether another member could seek to do that at a later time if yours was not successful. If you test it now you will get a general sense of whether

people would be willing to consider that and, yes, they would get a chance to speak when it returns to the House after the inquiry process.

It is your call as to whether you seek to do that and test the will of the House, or whether you let other people speak and see if anyone else wants to.

Mr VALENTINE - If I test it and move that and it is defeated, does that mean that someone else cannot deal with it at a later point? I have an idea it might mean they cannot.

Madam DEPUTY PRESIDENT - I will check with the Clerk whether someone can move a similar motion.

If you wish to do that now we will need you to adjourn the debate to enable a proposal to be drafted so that members can consider that in writing, like a motion to refer the bill, or parts of the bill, to another process. Members will need to agree to the adjournment for that to occur. If they do not agree to the adjournment then you will have to proceed. Another member could take up that option if they wish to at a later time but you need to have something prepared, as I understand it, to progress that as an option.

Mr VALENTINE - If I move it and it is supported -

Madam DEPUTY PRESIDENT - The adjournment of the debate. That is what will be the action at this point.

Mr VALENTINE - Yes, for the adjournment of the debate for the purposes of seeking a short inquiry process through Committee A.

Madam DEPUTY PRESIDENT - Or to table a motion referring -

Mr VALENTINE - To table a motion with respect to that.

Madam DEPUTY PRESIDENT - That is right.

Mr VALENTINE - If that is agreed, what do we do? Take a short hiatus while we get that prepared?

Madam DEPUTY PRESIDENT - If the House agrees, the debate would stand adjourned. Then it is up to the Leader what she does with the House at that point.

Mr VALENTINE - I appreciate that guidance. Various groups and individuals have expressed concern about the major changes that may be of a process associated with the amendments to draft Local Provisions Schedules, so I thank you for that and emergent amendments and substantial changes to the Local Provisions Schedules, I should say, which is more of a concern. It is important that we all understand the implications of that. It was important that the minister gave us a briefing, and I thank him for doing so. I also thank the officers who have provided us with briefings this morning, and members of the Planning Matters Alliance who came in. It is fair to say that clarifications were provided to them, as much as anyone.

However, I am concerned that we have a lack of general understanding of exactly what the import of these changes might be. That is why I seek an adjournment to seek a short inquiry

process, to enable us to have some clarification, so we can all be apprised of exactly what this is trying to achieve and can ensure the concerns in the public area are allayed - because I believe there is some misunderstanding. I am not entirely sure I fully understand it either, so I would appreciate that time as much as anyone else.

Madam Deputy President, I move -

That debate be adjourned for the purposes of a short inquiry process.

[3.17 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, the drafting of this bill reflects the current OPC drafting style which aims to provide legal certainty in the outcomes of the application of this bill. The paragraphs are sometimes long, and appear complex; but that is to cover the many scenarios that this bill needs to address. The member for Hobart is talking about one council. I have spoken to my three councils and they are quite comfortable with it, and I know they wish to proceed.

This bill package has been in members' inboxes since 23 March 2021, which is quite some time. I urge members to move forward with this bill. The minister explained to you why he would like to see it proceed. We were assured at the time, and it is the case with the bill, that there are plenty of opportunities for consultation throughout the bill.

As I have said, it has been in members' inboxes since 23 March 2021. It is the same bill. I urge members to please move forward with this bill. Everyone is prepared to go and has their opinions. We can address some of the concerns of the Hobart City Council throughout the debate. I urge members to move forward with this bill and not agree to an adjournment.

[3.19 p.m.]

Ms RATTRAY (McIntyre) - Madam Deputy President, I rise to acknowledge the member for Hobart's call for the debate to stand adjourned and to head to a committee process. I will not be supporting that call. For a couple of reasons. Yes, planning is complex but I am also comfortable with the fact we have had representation from the TPC who are very clear about what they need to do their job and they are the experts in the arena. That is my view. Twice now, John Ramsay has made representation and addressed the Legislative Council members. If we start to try to put this into a committee it would only be, with all due respect, a committee of half the Council.

Madam DEPUTY PRESIDENT - It is not to go into that question at the moment. It is whether the debate stand adjourned.

Ms RATTRAY - That is part of my reasoning.

Madam DEPUTY PRESIDENT - Let us keep it confined.

Ms RATTRAY - Thank you, but that is part of my reasoning. It is half the committee of the Council. There would still be members who are not part of that committee process who would be relying on other members of the Committee A to have that more fulsome understanding if that is what the member is looking at. When I had read through the second reading speech I thought there was an issue with it when it says 'these amendments are simple', they should have added 'simple and important'.

I appreciate the member for Hobart's concern for the Hobart City Council and PMAT and the Conservation Trust. I listened to what they had to say this morning, but at this stage I am comfortable to proceed. One view only.

[3.21 p.m.]

Ms ARMITAGE (Launceston) - Madam Deputy President, I will support the debate standing adjourned, but I will not guarantee I will support the amendment. I would like to hear members debating that it go into committee, so I would like to listen to members speak on that rather than just the debate stand adjourned.

I am happy to support the debate stand adjourned, purely so I can hear other members and their comments about whether it should go to committee. First, I am reasonably comfortable with the bill as it is, but it is the right of everyone in this House if you are not comfortable. One of my councils, Launceston City Council, is comfortable but I hear that some members might not be. I support the debate stand adjourned, but will not guarantee I will support it go to committee.

[3.22 p.m.]

Ms WEBB (Nelson) - Madam Deputy President, on this question of whether the debate stands adjourned, I support that. I do that because if a member wants to bring a motion that can then be debated and have its merits tested on the Floor of the Chamber they should be able to do that. We have the time available to do it and, as a matter courtesy to members who want to pursue well-articulated reasons for pursuing a particular course of action, they deserve to be able to do it. I support the motion that the debate stand adjourned and then we will have a chance to consider at that stage when the motion is brought, the merits of that motion.

[3.23 p.m.]

Ms LOVELL (Rumney) - Madam Deputy President, I am inclined to agree with the member for Launceston and the member for Nelson. It is reasonable to support an adjournment to allow the member for Hobart to put his motions so he can debate the merits of that, but that is as far as I will go at this stage in terms of that support.

Madam DEPUTY SPEAKER - The question is that the debate be adjourned.

The Council divided -

AYES 8	**NOES 4**
Ms Armitage	Mr Duigan
Mr Gaffney	Mrs Hiscutt
Ms Lovell	Ms Howlett
Ms Rattray	Ms Palmer (Teller)
Dr Seidel	
Mr Valentine	
Ms Webb (Teller)	
Mr Willie	

Motion agreed.

Debate adjourned.

SUSPENSION OF SITTING

[3.31 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, I move -

> That the sitting be suspended until the ringing of the division bells.
>
> This is to enable the member for Hobart to draw up some terms of reference.

Sitting suspended from 3.30 p.m. to 4.04 p.m.

LEAVE OF ABSENCE

Member for Pembroke - Ms Siejka

[4.04 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council)(by leave) - Madam Deputy Speaker, I move -

> That the member for Pembroke be granted leave of absence from the service of the Council for the remainder of this present day's sitting.

Leave granted.

MOTION

Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Modification) Bill 2021 (No. 13) - Referal to Government Administration Committee A - Motion Negatived

[4.05 p.m.]

Mr VALENTINE (Hobart) (by leave) - Madam Deputy President, I move -

> That the Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Modification) Bill 2021 (No. 13) be referred to Government Administration Committee A for further consideration and report.

In speaking previously in my second reading speech, I outlined a number of concerns of the Hobart City Council, which is in my electorate, and Planning Matters Alliance Tasmania who have made representation and briefed us this morning. In discussion even after that briefing, it is quite clear that it is unclear as to exactly what the consequences of this particular set of amendments may lead to, in particular to do with more significant amendments to Local Provisions Schedules.

I have received even further information about 2.38 p.m. - which is not that long ago - in relation to advice Planning Matters Alliance received from a different lawyer about this particular matter. You can say with 100 lawyers, 50 of them are going to be wrong at any one time, because that is the way life goes. They have received advice and I will read what it says:

> In short, our concerns stand. I have discussed this verbally. The LUPA Amendment Bill introduces a new pathway for the Tasmanian Planning Commission to make a local provision schedule when it is first created that 35(K) be a LUPA or clause 16 of the bill. That is the basis of our concern. That is, that a local provision schedule can be finalised and take effect that includes a substantial modification that has not been subject to public consultation and full consideration by Tasmanian Planning Commission, including public hearings.
>
> The section of the LUPA amendment bill that deals with development applications in relation to a local provision schedule that has been created through the above pathways, section 51(3)(a)(d).
>
> Where a local provision schedule is approved through the 35(K)(b) pathway, there is nothing in the LUPA amendment bill that prevents a development application for an area subject or substantial modification to a local provision schedule from being considered by a planning authority and potentially approved after the local provision schedule is approved, but prior to the substantial modification going through a public consultation process.

They are saying this. They have a planning policy unit and -

> Tasmanian Planning Commission representatives in briefing the Legislative Council did not address this specific point. After the briefing we were advised that a development application for an area covered by a substantial modification cannot be considered by a planning authority prior to the substantial modification passing through a public consultation process, but the relevant section of the amendment bill or existing Land Use Planning Approvals Acts provision that it addresses, it was not identified. We remain unconvinced.

I could go on with this and talk about some of the proposed amendments they feel would be necessary, but quite clearly it is not straightforward and crystal clear as to what the circumstances are here and what unintended consequences may occur as a result of this. I can appreciate their concern.

I am sure everyone around this Chamber understands that it is complex. I want to send this off to Administration Committee A for the purposes of a short inquiry, but we cannot direct them to have a short inquiry. That is up to Committee A to decide, but I implore them to make sure it is a short inquiry process. It is a matter of clarifying these various concerns and seeking feedback again, getting information in, having the department clarify exactly, and having the commission if necessary. There are a number of areas where they are going to get their information. I do ask members to do this because once it is in play, that is it. We live by that and it is important to get it right.

I am not saying that it should be an inquiry that goes for months on end; that is not the intent of this. It is not the intent to in some way filibuster or to stop it from occurring in that way. It is to get genuine information and to make sure we all understand exactly what this is going to achieve, or not. I have said enough. I will leave it to other members to speak to the motion.

[4.11 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, I have a few notes here as to why the Government will not be supporting this move. I would like to run through them if that is okay. The Government feels there are valid and good reasons why we do not need to move this off to a committee. As we heard from the minister earlier, this bill makes a number of key administrative changes to LUPAA that will allow the Tasmanian Planning Scheme to come into effect around our state earlier. I think we all agreed on that.

These changes have been asked for by the commission for some time. This bill was initially tabled in March following over 10 weeks of consultation. The bill provides an option for the commission to reschedule some of the steps in the finalisation of an LPS to allow it to come into effect earlier while minor outstanding issues are addressed as an amendment to the LPS. It provides greater procedural fairness for proponents, councils, community and the RMPAT by requiring all development applications to be assessed against the planning scheme in effect at the time of lodgement rather than the assessment.

In this time of transition this is an important change. At the moment we have two planning systems operating in parallel, something that adds to the complexity of the system. Any amendments that help us speed that transition to the single Tasmanian Planning Scheme are important and should not be delayed. While the drafting style may make the bill difficult to read for some, what it does is simple but important. As the minister said, the priority is completing the implementation of the Tasmanian Planning Scheme across our state allowing us to move onto important strategic planning matters like the development of the Tasmanian Planning Policies and the review of the regional land use strategies.

Even though the bill may seem complicated it is doing some simple things. It is technical in nature. I do not have to explain to members here that it is OPC style of drafting; it is just the way it works. The bill has been in the making for more than 12 months with delays caused by COVID-19 and the election. As I said earlier, members had it in their inbox in March 2021. There is an urgency to address the LPSs and this has been an urgent matter for the commission for more than 12 months. He has been in twice to try to explain that to us.

The bill is a product of extensive stakeholder consultation - 12 weeks - and has been about since November 2020. A comprehensive consultation report was prepared detailing the responses, along with a detailed briefing pack. The members have had two briefings on the bill, including the commission. A personal invite was provided to the member for Hobart for a detailed briefing which was not taken up by the member at that time. The LGAT and other councils are in support of the changes and I have already mentioned that the three councils in my electorate have no issues with this amendment bill.

Further delaying the bill will delay the introduction of the LPSs further and frustrate the commission in undertaking its independent assessment of the LPSs. The commission has requested these changes as a matter of urgency, members. It is not a government policy or the Government pushing anything. The commission has asked for these to be done as a matter of urgency.

Finalising the Tasmanian Planning Scheme will allow the commission, the Planning Policy Unit (PPU), councils and the community to redirect their resources to the important strategic planning matters in the planning system - such as preparing, assessing and making the

Tasmanian Planning Policies, a true comprehensive review of the three regional land use strategies, along with building an appropriate framework for monitoring, reviewing and governing the strategies.

In summary - it is OPC drafting style, and it is technical, to receive and produce some very simple amendments which the Planning Commission has requested for a long time. I urge members to please proceed with this bill through to its finalisation and not support sending it off to a committee.

Mr Valentine - The reason I did not the take up the briefings, as I told you at the time, was because I wanted to hear what the concerns were from the groups that were briefing us today.

Mrs HISCUTT - Yes, I realise that, thank you. I knew you would be doing the best you could for your council and I knew that the LGAT submission was in light of everybody else. I thought you may have had some issues with the Hobart City Council so I did offer that briefing to you to try to get over this point at that stage.

Mr Valentine - It has gone on the record what those concerns were.

Mrs HISCUTT - I urge members not to support sending this off to a committee. The commission wants and needs these. It has nothing to do with policy, government or Liberal or Labor, or anything like that. I urge members not to support this motion and to see the finalisation of this bill today.

[4.17 p.m.]

Ms WEBB (Nelson) - Madam Deputy President, I will speak on the motion that has been put to us by the member for Hobart; we share the council in common. The council the member has been referring to as having concerns is also a part of my electorate, so we have some commonality there in what matters we might consider.

I acknowledge the work done on the bill - it is substantial, and the consultation that occurred is substantial. We had a good briefing pack that outlined many matters covered in that space and I appreciate that.

While I recognise that 12 weeks sounds like a long time for consultation, it should also be on the record that it was extended. Initially it was scheduled to be over the Christmas and holiday period, which I believe is an appalling time to expect any member of the public to contribute. No? I am being told no with some shakes of heads. Perhaps that could be clarified on the record.

Mrs Hiscutt - I have heard people say the opposite - that it gives them the time to think about it. We will have to have several different opinions here.

Ms WEBB - Duration of time gives people time to think about it so it is excellent that it was 12 weeks in the end, especially if that did capture some time that was difficult for people to engage. I will leave it at that.

We have had it in our inboxes since March, but then we also have not been sitting since March. I remind everyone this is our third sitting week for the year in this place, so we have

not had a chance to come together to even contemplate whether this would need to go to a committee. This is our first opportunity to do that. I appreciate that we have the opportunity to consider that.

There are members of the community who may have been keeping an eye out for this bill to come to parliament to be considered. They would have only been aware recently that it was going to be dealt with by both Chambers in this sitting period. A person in the community who had an interest in this bill would not have known until Monday evening this week that it had gone through the other place late last week. I was keeping an eye on the parliament's website to see when this bill had passed the other place last week and to have that *Hansard*.

That might be a trigger for you to then engage with us here in this place, knowing it would be coming to us. That did not occur. That information was not available on the parliamentary website until Monday evening. That is a very short time ago for any interested members of the community to come forward and interact with us about it, knowing it had now finally come to parliament. I make the point, it is generally at the time things are brought to us in parliament that people engage with us, not necessarily when it first lands in our inbox, because members of the public are not in control of when those things are then brought.

I acknowledge some of the matters the member for Hobart has outlined as people's concerns. There is and remain concerns out there expressed to us quite clearly. While we have heard this is a simple bill and there are simple parts to it, it also complex. Planning is always complex and even an amendment bill is always complex. It is difficult to contemplate when we are hearing concerns and then we are trying to synthesise that also with information received through our briefings and sources.

It is an interesting time to be asked to think about the system we have put in place within this place with Government Admin A and Government Admin B committees and the portfolio allocation under those - whether that works well and it is available to us to further examine bills with some level of complexity or level of things we perhaps need to give some thought or even time on the public record through an inquiry.

I note while the motion cannot specify what manner of inquiry would occur if this was passed and went to Government Admin A, I am on that committee and have heard the proposal put verbally, while not in the motion, that it would be a short inquiry process. That is a formal process put in place within those committees. It does not just mean we will try to keep it as quick as possible. It is a formal, shortened process for inquiries so they do not, as the member for Hobart says, 'become too protracted'. They are able to be done in a short, sharp fashion. The value of those short inquiry processes is they are quite lithe. The briefing process that occurs for us ahead of bills coming where we are briefed in an informal way and might have other stakeholders, beyond the department stakeholders, come and brief us - that happens off the public record for our benefit and then we bring what we have gleaned from that to this Chamber when we are considering a bill.

A short inquiry process is a valuable way of putting more formality around the process that already happens so it becomes part of the public record. A short inquiry process would simply be a replication of some of that, but on the public record. Then the committee would do a report to bring to this Chamber for consideration or for extra information of members to consider when we look at the bill.

We have done that short inquiry process before in Government Admin A. They can be done in a very expedited fashion. The next opportunity we might have to deal with this bill and the duration between that would be when we sit in August. There is a Government business day prior to the state budget, Wednesday, 25 August, so there is potential for this process if it goes to Government Admin A - engaged in a short inquiry process - that it could be done in the intervening interval with that less than two months away.

In supporting the member's motion, we are talking about potentially inserting a two-month delay into the passage of this bill. The value we get is we have a whole range of matters that people have had concerns about examined more formally and on the public record. We can then work to allay those concerns and also clarify for members here so that we can have full confidence as members when we do then address the bill in the Chamber. To me, that is a valuable payoff for a delay of two months. What we heard when the minister briefed us this morning - and it was excellent to have him come and be available to do that - we put the essence of what we wanted to hear from the minister, including, what are the time sensitivities in this bill? That is relevant now to think about in terms of whether we are to support this motion and put the bill to a short delay potentially for an inquiry process.

The minister alerted us to two elements in the bill that from his perspective were time-sensitive and they were interested in the bill passing as quickly as possible in order to see those come to resolution. One of them related to the treatment of substantial modifications to draft LPSs, so that the vast part of an approved LPS could go through and a substantial modification that had been directed could be dealt with as an amendment. When we dug into that a bit further we found that is relevant to one council area presently, Clarence, where were this bill to pass, that could then allow the LPS to come on board in large part and then have a substantial modification be dealt with as an amendment. So, it would come on board more quickly.

Ms Rattray - Was it Central Coast as well?

Ms WEBB - They are already past the point. That was my understanding. If there was a delay there may be four to five other councils that would be put it in the position of it having the more protracted time frame rather than a potentially shorter time frame that is offered under the bill here. There are some implications for a small handful of councils, knowing that we still have 23 councils going through the approval process for their LPSs. That is certainly up for consideration but it is potentially a two-month delay. There are things to weigh up there.

The second part that is time-sensitive - and it was identified by the minister - is that switch that is in the bill which says that DAs will be assessed from the time they were submitted and will be dealt with under the arrangements at the time they were submitted rather than the time of the decision. That switch does have an impact for people who are putting in DAs.

We just had a three-month delay because of an election being called. It must be quite frustrating to have it put forward that there could be another couple of months delay. Then again, if we did just want to get those two time-sensitive things done we probably could have had a bill that just did those two things. It may have been easier to deal with because there are quite a lot of other things in this bill too which apparently are not time-sensitive. Therefore, it would not matter for those things, I am imagining, if we had this short delay.

I realise members will have their own views on balancing the value of what will be delivered to us through that short inquiry process which Government Administration A could contemplate if the motion was supported versus the detriment that people might judge there to be in doing so. I am in support of the motion. I believe we should utilise the committee arrangements we have for when bills come to this place that have some complexity, that have a high level of public interest and are on matters that might be sensitive in terms of public interest.

Planning is often one of those areas. I like the idea that we give added robustness to our treatment of this bill and give the community and various stakeholders extra confidence that we have done our job in contemplating it. I am in support of the motion.

Mr GAFFNEY (Mersey) - Madam Deputy President, I am not going to repeat the information we have already heard from the members for Nelson and Hobart.

I accept that this morning we heard there have been a number of amendments made to the bill already through stakeholder consultation. That was valuable to hear. I also accept that all people who are speaking on this bill, or people who are involved with it, want the best for Tasmania. It is not as though either group is saying we do not want this or that. I am also unclear and, as a member of this parliament, I want to be certain about any legislation that is passed. I heard from the member from Hobart, and I believe the Planning Matters Alliance group made a couple of very good points when they said, with all due respect to councils, this is our one task, this is part of our communities' representation.

Councils have been so involved with this process for such a long time, that they are suffering from reform fatigue, where they say, 'just get on with it'. Any council would say, 'we do not really mind, we just want this to finish because we have been involved for so long'.

However, if we have a group with real concerns, and there is an eight-week period where feedback can come to us, and we have listened to the Government and to those specific stakeholders, then we will have that information in front of us when we come back to this place. At the moment, when I listened to differences of opinions in some aspects this morning, I am still not completely certain of where I sit because it is a confusing and complex issue. I have been involved in planning matters for many years through my local councils, and it has never been easy.

The process that we put in place, is for Committee A to decide. However, I believe the SIP process was there for this purpose, to ensure that when we do decide - whether that decision is eight weeks from now, on 25 August - we have brought the stakeholders into the mix. Perhaps the stakeholders will have a greater chance to say, 'I hear what they are saying now; maybe there is an amendment that we can put in, or maybe there is something else we can consider'. They may suggest to us something we had not really fully appreciated from their point of view. I would be very comfortable after I listened to that discussion in the eight-week period.

Regardless of whether I am on that committee, I would have access to all that information through the SIP process, or through the Committee A process, and then I would be comfortable making a decision on 25 August. I am not comfortable at this stage. I believe we need to move this on; it has been around for long time. However, I am not comfortable to have to make that decision today. I do not think I would be doing my municipality right if I was to do that. I

would be comfortable after that eight-week period. I believe that is important, because of the things that we do not know and the indirect consequences.

I understand that we have been told it is simple. It sounds simple to the people who play in that space, but to the Planning Matters Alliance group and to the EDO, who also play in that space, it is not simple. They have some valid concerns, and the way we can deal with that, in our role as the House of review, is to put in place a committee process. I encourage members to support this going to a committee process.

[4.33 p.m.]

Ms PALMER (Rosevears) - Madam Deputy President, I rise to address some comments made by the member for Nelson. The consultation period was set at 12 weeks, from the beginning - 13 November 2020 to 5 February 2021. The period was extended by an extra two weeks to allow PMAT to provide their submission. Therefore, the period started well before, and finished well after, the Christmas holiday period. I make these comments to urge members to vote against the motion for a committee.

[4.34 p.m.]

Madam DEPUTY PRESIDENT - The question is that the motion be agreed to.

The Council divided -

AYES 3	**NOES 9**
Mr Gaffney (Teller)	Ms Armitage
Mr Valentine	Mr Duigan
Ms Webb	Mrs Hiscutt
	Ms Howlett
	Ms Lovell
	Ms Palmer
	Ms Rattray (Teller)
	Dr Seidel
	Mr Willie

Motion negatived.

LAND USE PLANNING AND APPROVALS AMENDMENT (TASMANIAN PLANNING SCHEME MODIFICATION) BILL 2021 (No. 13)

Second Reading

Resumed from above.

[4.41 p.m.]

Mr VALENTINE (Hobart) - Madam Deputy President, let me first say thank you to members for allowing me to move that motion and test it on the Floor. It was important to be able to do that, even though it did not go the way I wanted. I might have even been talking about the Local Government Association's concerns when I got to the point of talking about

the possibility of it going to a committee to have a look at some of the concerns and issues still there.

I wanted to read from the Local Government Association's letter to us under other issues and I do not think I did this:

> There are concerns that the proposed changes to section 51, Permits, could lead to planning permit decisions being based on provisions in the proposed amendment that are still on public exhibition or yet to be determined. Planning permit decisions should be based on planning instruments and effect time of lodgment or at least certainly be fully in effect at the time of the decision.
>
> The proposal to implement certain state planning provisions through interim planning schemes is not supported by some councils, particularly those still operating under their IPS (Interim Planning Scheme) as certain conflicts between the state planning provisions and interim planning schemes will be suddenly overridden by the State Planning Provisions without a sufficient public consultation at the local level.

Quite clearly, and they go on to say:

> This is likely to create significant confusion and angst in communities and the council officers who will need to explain this to concerned members of the public.

I wanted to read that in to complete the picture from the Local Government Association's point of view. I have already dealt with my own council's concerns and would hope I have some response to how many of those or which ones of those ended up being included.

I want to finish on one particular point which is on page 42, clause 24, to do with Savings and Transitional Provisions:

> Clause 3 of Schedule 6 to the Principal Act is amended by inserting after subclause (2) the following subclauses:

And it goes on to deal with -

> If a draft planning directive prepared under section 10 of the former provisions consists of provisions that meet the relevant conditions, the Minister may issue under section 13(1) of the former provisions a planning directive in the form of the draft planning directive, even though a report and recommendations have not been made, under section 12(5) of the former provisions, in relation to the draft planning directive.

Is this somehow validating the IPD forward that came out in February? I would appreciate the Leader clarifying for me exactly why it is there. It would be very good if I could have this clarified.

I am going to leave it to others to outline their concerns and will be listening. I am nervous about supporting a bill that I do not feel is fully understood or we can be mostly sure that there are not going to be some unintended consequences flowing from this. We all like to be in a position when we vote in a bill to think it is as good as we can make it. It is the House of review. It is the only place where we really do deal clause by clause with a bill and we ought to pride ourselves on the fact that we do that. It is important. It is important work that we do here and I would like to think that with this particular bill, with planning as complex as it is or as simple as this is supposed to be, it is important that we get it right.

[4.46 p.m.]

Ms ARMITAGE (Launceston) - Madam Deputy President, I have a very short contribution.

I thank the Leader for the series of briefings as well as the briefing pack which was very useful. It was good also to hear today from Sophie Underwood and the others from PMAT and Peter McGlone.

Having been on local council I have a reasonable understanding of planning development applications and building applications and like other members here who have been there we used to deal with them quite a lot when we were around that table. I have also seen the problems that have arisen in later times when people are unable to complete developments because they do not fit with the interim planning scheme but will be discretionary under a statewide planning scheme. I will mention a little bit of that shortly.

We have been advised - and it was good to hear from the minister, Mr Jaensch, today - why there is an urgency to this bill, particularly with two amendments that are time-sensitive which occur partly because when we finish this week we will not be back in this place until late August. I accept the member for Hobart proposed a committee but one of the concerns I had, even though it might have been a short, sharp committee, you can never actually guarantee how long something will take. It might have been ready by August but it might not have been and it is very difficult once things get started to know how long it is going to take and how long this might have been held up.

It is hoped that over the next six months the majority of planning schemes will make their way through transition from interim planning schemes into the statewide Tasmanian Planning Scheme. I have been waiting for that for a very long time. Every time I ask I am told it is going to happen in the next few months and I am really hoping that this time it will happen in the next few months. It impacts on many of our constituents quite considerably.

It is my understanding that where issues have been raised and considered by councils and the planning commission has looked at them and 95 per cent of the LPS is good to go, there might be a few isolated situations that need amendments to be made where there is a public interest. Currently, the whole lot would be required to be exhibited again and I am sure the Leader will tell me if I get this wrong just so I have an understanding.

As the act is currently written everything stops until it is sorted out which can chew up months for something that only affects a small part. For example, in this case it would be 5 per cent that could cause an unnecessary delay. Everyone would be disadvantaged in this case by some minor component of it; and while it may be important to those involved, but not so the whole plan is put through the whole process again.

My understanding from Mr Jaensch today - and I thank him for his briefing - that there is no diminution of fair public process consultation or natural procedure.

The other example of timeliness was that as we have councils making the transition from the interim planning scheme to the Tasmanian Planning Scheme over the next six months, the act says at the moment a development application needs to be assessed under the scheme at the time, which means potentially there would be DAs submitted under the interim planning scheme and the decision needs to be made under the Tasmanian Planning Scheme.

The matter is required to be appealed under the scheme at the time rather than the scheme under which it was made. That is the current situation, I believe. On these occasions the clock would stop and cause a lot of double handling and extra work for applicants and the councils.

I do not believe that rules should be changed from the time of your application, after it is submitted. The set of the rules at that time should be the rules applying instead of rules if appealed. I believe this is fair and avoids wasting time.

The transition to the statewide planning scheme is going to put its own demands on councils and I do not believe there should be too much double handling. If we can through small amendments that do not affect the public's interest or the planning principles, we should ensure a smooth transition from one planning scheme to another.

We need consistency sooner rather than later with a statewide planning scheme. I have an example that I have been dealing with, probably sometime last year, to do with a shed. It was a shed to house some cars on a very large parcel of land in a rural setting. Under the current interim planning scheme - I think it was a rural residential - this was not allowed. There was no discretion. It was simply not allowed even though you would not see the shed as they had many acres of land.

Ms Rattray - They could not refer to it as a barn?

Ms ARMITAGE - They could not refer to it as anything because the building envelope was already at its maximum on the land even though it was a very large parcel of land. Under the statewide Tasmanian Planning Scheme it is discretionary. On the advice from the variety of planners, I had to advise the constituent not to put it in yet, hold it. At that time - and I had been told many times that the statewide planning scheme was coming - I had to tell them, do not put it in yet. Once you put it in and it is rejected that is a problem. So, you need to hold it and wait for the statewide planning scheme because I have been advised that that it was discretionary and would likely be approved. Under the interim planning scheme, it is a definite no. It is very confusing for a lot of people.

I asked the two councils in my electorate for their opinions. I have received back from the City of Launceston - the largest council in the state - and their comments are:

> At the time that local government was consulted on this in November of last year we reviewed the proposed changes and formed the view that they were generally sensible and pragmatic adjustments aimed at bringing some clarity as we transition to the new planning system. Brian Risby, director of Planning Policy, wrote to councils recently to advise there had been some further revisions made following feedback received, including ensuring

better and earlier engagement with councils before making minor and interim amendments of the SPPs something which we certainly welcome.

We also welcome the improved process for finalising the local provision schedules and the clarity regarding determining development applications lodged prior to the new schemes coming into effect which will provide more certainty for applicants. We are generally supportive of the intent and content of the amendment bill.

Therefore, I will be supporting the bill before us.

[4.53 p.m.]

Ms RATTRAY (McIntyre) - Madam Deputy President, I am glad we were able to get 'take two' on that one. It has been useful so thank you. My offering will not be a lengthy one but I want to put on the public record that in principle I support this legislation. I have been around here a little while now and many of us have been waiting for a statewide planning scheme for a very long time.

Some of the people up the back are probably somewhere up to here with it right now but we know that this is not the end. How many times have we heard in this place that there are stories right across our state where there is so much inconsistency for people in the building industry? They just shake their head and sometimes walk away and say, 'look, it is all too hard'. We cannot understand why we have this in Meander Valley, and this in the City of Launceston - the biggest council in the state - and this in Hobart, this in the Central Coast and then we come back to Dorset and it is all different again. We certainly need something and we cannot continue to sit around having a talkfest about it.

I acknowledge that the member for Hobart was well-intentioned in his endeavour to support the PMAT organisation. I have to congratulate them on their continued representation of the matters that are important to their organisation. From memory, it named up 70 groups this morning so they continue to be hardworking in what they see as important.

Madam Deputy President, I want to say the leaflet we received this morning - particularly in regard to Anne Harrison - made a well-considered representation around the changes to the IPD. I acknowledge the issues laid out in that document are of concern and they will be reviewed at a later time, but they are not part of what we are dealing with today. It is worth noting they were significant issues, but they are not part of the legislation we are dealing with. Thank you to that group for their representation. It did not go unrecognised.

We know only too well that transition is difficult for many people. We do not always have ministers come and brief on the legislation they put forward to the Council but it is well received by all of us, certainly by me, and I appreciate the opportunity.

I wrote down 'transition will put demands on council/council officers and elected members'. That is their bread and butter. Of course, there are going to be some challenges with that and they will work through it as best they can with the support of not only LGAT, but also the planning officers. We heard this morning in the briefing from Brian Risby that councils make calls, ask questions and they receive the information. That is what that office is for. If there is an issue, use the most knowledgeable people we have in this state. Use them.

Mrs Hiscutt - Good advice.

Ms RATTRAY - Good advice if anyone contacts me, but I had limited response with six councils. Limited response in regard to that, but a couple supportive of the changes being put forward. It is always a difficult one. You put it out on Friday afternoon, it is not always easy for smaller to medium councils to get back to you in a timely manner. Even though we have had it in our inbox since 23 March, most of us were doing other things or watching intently to see. There was no point in dealing with something we did not even know we would be dealing with when we came back.

It was clear from the briefing this morning that the Labor Party was not necessarily supportive of these changes. It was interesting Mr McGlone used that forum to make that statement. I do not know whether it was correct or not but I am sure that is what he felt or he would not have made it.

As I said in my contribution, a little bit earlier I thought there was a word missing from the second reading speech because it talks about how these amendments 'are simple', but it should have had 'and important', in what they aim to achieve. We know it is important we continue to progress the initiative of the statewide planning scheme, otherwise we are going to continue to be treading water in the planning area.

Mrs Hiscutt - It should have also had 'technically challenging' in bold letters.

Ms RATTRAY - It did say 'but are quite technical in nature'. Not bolded, but we certainly had the message. For the member for Hobart, who has been involved in council and planning for 29 years, for that to be a challenge for the member then we do know it is challenging but, in this case, it is about the principle. This second reading speech is about the principle of what is being asked to be supported here today and I do support that principle. I have been part of that call for a statewide planning scheme for Tasmania, certainly with local area provisions as well, for many years and I believe we need to move forward with that, particularly when it was at the request of the TPC.

The TPC came twice and told us this is what they need to do their job in an efficient and effective manner, without any negating of community rights or opportunity to have input -

Madam DEPUTY PRESIDENT - Diminution was the word you were looking for.

Ms RATTRAY - Diminution. Thank you. As a state, we put a lot of trust in John Ramsay, Peter Fischer and the commission. That is their bread and butter. They know that inside out, backwards and upside down. They probably wish sometimes that they had something else to do; but that is what they do on a day to day basis.

I noted from the minister's contribution when he came down and briefed us that he said, this is not about a policy; this is a request. Clearly, the statewide planning scheme was asked for many years ago and this has been progressed, but it was clear from the minister this legislation is not a policy decision. It is a request from the TPC and they will work with local government.

I support the principle and I support the merit of where we are heading with this, whether it be perfect in the first instance, as the honourable member for Hobart said. It is not always

perfect first-up, and we know that. On occasion we have had to come back in this place and look at amendments to tweak or fix or change something that is not working, or has not worked to its effect. That is what we do.

We will possibly do it today. We will possibly do it in eight weeks time; but I am prepared to support it into the Committee stage.

[5.02 p.m.]

Ms LOVELL (Rumney) - Madam Deputy President, I have some brief comments to make for the sake of clarity for members and for those who might be observing the debate.

This is a bill that my colleagues in the lower House have supported and we will continue with that position. We will support this bill. The concerns we had with the bill were addressed in the questions that we put to the Government in the other place, and so we are comfortable with where we sit with this bill now.

I understand that some stakeholder groups may have further concerns and may not be happy with the bill as it stands. I know there will be groups who will be disappointed with the position I am taking on this bill today, and potentially the position the Chamber takes on the bill. However, fundamentally I support the bill and understand this is a process that is necessary to continue the transition to the statewide planning scheme.

I understand there is some urgency from the Government's perspective for a couple of reasons. More importantly perhaps is that this is something that the TPC has been requesting for some time and they have advised they need this to be able to function efficiently and adequately. We have long supported the TPC and are happy to continue to do so and enable them to fulfil their role.

I acknowledge PMAT and other groups we heard from this morning, and I acknowledge and thank them for their passion and for the time and energy they often spend on these matters. Planning is important and these matters are important to many of our communities, and it is an area that people get passionate about.

Although I might not always agree with their perspective, I always appreciate the time and effort that they put in to ensure that they are representing their stakeholder groups.

I will be supporting the bill today.

[5.04 p.m.]

Mr GAFFNEY (Mersey) - Madam Deputy President, I will be supporting the bill. However, I will put into the mix some more information I have recently received, from the group that attended this morning.

I have every confidence in the professionalism of staff but in this place, we have to question that professionalism and get input from other people in the community. The information is only very brief.

We believe that the LUPAA amendment bill, in particular the new pathway for making an LPS that includes substantial modifications, is confusing and complex and councils will find it very difficult to use. The fact that only a few councils made submissions to the department

and only one made a submission via LGAT, does not show that they support the amendments or will find it easy to use. My feedback from councils shows a strong reform fatigue and they find the existing legislation confusing. Instructions from the TPC that a particular change to an LPS is a substantial modification is not the same as having a planning scheme provision.

The councils may have real trouble in interpreting and applying the TPC decision when assessing a real-world development. During the LPS development process the TPC partly expected to give all substantial modifications the necessary attention, as they have a lot of detail in the LPSs to address and their second bite at the modifications in isolation from the balance of the LPSs.

In terms of the time it is taking to finalise LPSs, quite a few have been finalised and are being used - Burnie, Devonport, Circular Head, West Coast, Meander Valley and Brighton - and others are close. I believe that the greatest development pressure and controversy regarding planning is not in these areas. We should take our time to complete the LPSs. There may be some advantages in having certain provisions in place earlier but there is no critical urgency to this that a few months will make a difference and no one is begging for it.

I note again that only one council provided a written submission to LGAT on the draft amendment bill. It goes on to say there are no advantages to have the LPSs in place earlier, only the Government has not identified the reasons for this and the legislation to speed up the LPSs is unnecessary and there are very dangerous impacts that can be avoided. Putting that into the debate is important, to understand that I do not think any of the groups we heard this morning are against what is happening. They are concerned that the way it is progressing, there may be some consequences that we should perhaps have further investigated.

[5.07 p.m.]

Ms WEBB (Nelson) - Madam Deputy President, I know a lot of areas have been canvassed already and we did mention some things when we debated the motion put by the member for Hobart. It helps cut through some of the matters. I reiterate that I found the briefing pack useful and the consultation process furnished some useful things to be considered and resulted in some changes to this bill.

The one I particularly mentioned that I was pleased to see when I read the consultation report, was that the process of that consultation gave rise to changes being made in reasons having to be published, board decisions, and things being made more transparent in that way. It was excellent that those who participated in the consultation were able to call for that clearly and that was responded to. That is particularly the case in instances where the minister may not have taken the advice provided by the TPC, for example. Having to provide reasons for that decision into the public domain is particularly appropriate and useful to now have in the bill. Thank you to those who made the decisions about including those elements of transparency.

There were still some concerns that remained from various groups and we have heard some others give voice to those concerns. I will not go through them exhaustively. I will mention a few things, because they are matters I may have questions on as we go through the Committee stage. I will flag them now because some of them may be able to be dealt with ahead of Committee stage or we may follow up at that time.

I refer to the clause of the bill that deals with minor amendments of SPPs, and in particular clause 8, proposed section 30NA. Those minor amendments in that section have been grouped fairly helpfully into some levels of 'minor'. The most straightforward minor amendment, such as typos and numerical fixes, have been designated as matters that are not of high consequence and therefore the minister does not have to seek advice about them - and that makes sense.

Then there is a category in the list there of various things that the minister must seek advice on. The minister still has the discretion to take that advice or not. It is good to see that some of those matters, although they are here under the heading of minor, have been recognised as perhaps being of more consequence and therefore requiring advice to be sought by the minister. I think it is a positive way to indicate the potential greater consequence there. That makes sense to me and I think it is useful.

It does though beg the question, if they have been determined to be minor and then it has been determined though that the minister must seek advice on them, clearly there are some things that can be of consequence in relation to them. I am wondering about the parameters of some of those.

I do know that when we are talking about matters to do with planning it can occur at times that the possible impact of something can be minimised somewhat in presenting it to us for consideration. The lightest touch of the impact of those matters might be presented as the most likely thing that could occur and that may be so. Then things also can have possible greater consequences and it can be easy to skate across the top of those.

I am always interested to understand not just what might be the most likely impact and consequence that may be deemed minor but also what could be the greater impact and consequence or the more consequential example. That might be an area of focus for questions during the Committee stage in the list about minor amendments to the SPPs.

Regarding interim amendments to SPPs made at the minister's instigation, which can happen even in the case, I believe, of the TPC providing advice that a draft amendment should not be made on an interim basis in that matter. It says that those can be made when the minister is satisfied that the situation is urgent, critical, significant or when it is in the public interest. I am interested to explore more around the parameters of that.

Some external stakeholders have raised the fact that there is potential greater consequence that can be captured in these spaces so I am interested in whether we do have the right checks and balances around ministerial discretion.

I am particularly interested because of that public safety aspect described there. Some particular examples are given around bushfire management or housing-related matters but clearly in the bill it is not limited to just these. So, there is some broader potential consequence or options that may not be visible to us immediately that could come about.

One of the things that was a matter of some confusion and needed to be really teased out across the two briefings we had from the department and the briefings from other stakeholders like PMAT and also the minister - and it did take some back and forth to get clarity - is about that change of process when it comes to substantial modifications to draft Local Provisions Schedules.

It is an interesting one because I understand the argument that an LPS having been considered and largely found to be approved and appropriate at the present time is being held up if there is something within it that has been deemed to be requiring substantial modification. That then needs to go through its own process and therefore the whole lot potentially is being held up for six to seven months, we have been informed.

I understand the rationale that this bill is allowing for the LPS to go ahead once it has been approved almost whole with the part that has been designated as being substantial modification in place to be then amended subsequently. In the interim while that amendment process plays out, which would involve the public consultation elements and those matters, the direction for the substantial modification from the TPC stands as the rules on that thing even though it has not been publicly consulted on yet. Matters relating to it would have been consulted on when the draft LPSs were considered in their whole. However, the direction that came from the TPC about a need for the substantial modification has not as yet been consulted on and yet it stands as a rule for a period of time while the amendment process plays out.

Now that is an interesting thing for us to contemplate, balance out and think about: is this appropriate, and what are the risks and benefits? There is a potential benefit to that because it can put in place arrangements that many people might deem to be protective of an area that is not currently in place at an earlier time. I understand that to be a potential way this might play out, from many people and perhaps those who have raised concerns and also seen it to be a positive, that at the earlier opportunity we put in place protective things that the TPC has deemed should be appropriately put in as a substantial modification to that LPS. The public consultation then plays out, the amendment plays out and then it is officially put in place if it is passed. So, there could be earlier protection.

The other side of that is there could be an arrangement put in place where the substantial modification directed by the TPC becomes the rules while an amendment is considered for it to be officially put in place. Approvals and things might be decided under that which, once the amendment process plays out with its full public consultation, actually results in changes or a finding that it was not appropriate. Things may have been decided or put in place or put in train that then were seen not to be the way forward, of concern to people and not what the public ultimately made representations on.

This could work either way. What it comes back to when we are considering to support it or not, is whether it is a valid thing to be putting in place at this time, whether it is necessary to make a change from the way it is now. From my assessment, it comes back to having a fairly substantial measure of faith and confidence in the assessment and the decision-making of the TPC. Ultimately, whether that does go into a positive or potentially a damaging outcome will rest on those measures the TPC has made about the substantial modifications, the direction they have made which become rules for a period of time without having been consulted on publicly. We are putting our faith in that it will more likely go in a good direction than a bad one.

That is a very wordy way of trying to break that down but I wanted try to put the process on the public record that we had to consider as we worked our way through these briefings and came to understand what this change in the bill would mean. I still feel concerned about it. I am concerned that something becomes the rule before it has been consulted on publicly, with people able to put forward their thoughts and have them heard in the decision-making process

about the value of that. I recognise that in some sense it has been covered by an earlier consultation but not in its entirety, so I still have concerns about that.

When it comes to planning I suspect generally I will always err on side of wanting to see the public as involved and able to have a say as possible and for any process to have administrative justice and also be as transparent and accountable as possible.

Mr Valentine - We have to live with the results.

Ms WEBB - Indeed. I suspect this bill is going to go through so this is what we are going to have to work with. I will put it on the public record that what we are relying on here is the TPC to have made those decisions and directions about substantial modifications in a way that results in positive outcomes and reduces the risk of negative outcomes for the community.

That might be all. There will be some questions I may have that come up through the Committee stage. I thank other members for going through some of those other concerns that have been raised and I want to acknowledge that there is still concern about this. It would have been my preference for this to be looked at by a committee because it warrants it. The delay that it may have caused is warranted and would have been a valuable delay. Because we are the last cab on the rank as something comes through with something initiated as policy by the Government and it goes through its processes to be developed, ultimately eventually comes to parliament, goes through the other place and we are the last station for the train. What that means is when it is a matter of taking some extra time and consideration at that last station at this point in the process, it can look like unreasonable or unacceptable delay. Suddenly, with the urgency that may have been there or have cropped up because other elements of that process have taken an extended or unnecessary or unreasonable amount of time, we are the ones who then wear the pressure of this.

That is a shame because at this point of the process, this final station for the train in its travels, is an important one and we should never shy away or feel the need to excuse the need for us to have time to do our job appropriately, to take the opportunities we have created in our processes, like our Committee A and Committee B opportunities to review or inquire or provide extra scrutiny. We should never have to feel we should put those aside. We are as valid a point in the process as any of those other points along the way, from the time of conceding it a policy through to it becoming a law.

I would encourage members here to always remember that it is our role. We are as entitled to do our role well as everybody else who has been involved in the process prior to it arriving here. I would encourage the Government and any government of the day bringing matters to us to also respect and remember that is our role. Just because we are the last station on the journey does not mean we have to bear the pressure and feel we have to rush or not do our job to the extent it deserves.

With that I will conclude my contribution.

[5.22 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, the first question was from the member for Hobart about planning directives. There appears to be a significant misunderstanding about this part of the bill,

member for Hobart. The bill enables the minister to issue a planning directive in the form of Interim Planning Directive No. 4, without following the normal assessment process for issuing planning directives. This is the because the provision in Planning Directive No. 4 relates to parts of the SPPs. Interim Planning Directive No. 4 came into effect on 27 February 2021, on recommendation from the commission. It brought into effect some of the SPPs through the remaining interim planning schemes. The SPPs have already been subjected to a comprehensive and open public process and assessment by the independent commission, including 25 days of public hearing.

These provisions were approved in early 2017 and are already operating in several parts of the state as part of the Tasmanian Planning Scheme. Requiring a duplicated assessment of the SPPs would be an inefficient and costly exercise for the community, industry and the local and state government. It is also unnecessary, given the provisions will automatically come into effect once each council's LPS is approved.

This is why it is proposed to waive the normal assessment process that follows the issuing of an interim planning directive. The SPPs are due for their five-yearly review in early 2022. It is more appropriate for the SPPs to be considered in their entirety as part of this review rather than reviewing discreet parts through the assessment of the draft planning directive.

The next question was for the member for Launceston. Under the current process only the substantial modifications are readvertised, not the other bits of the LPS, so other than that your assumptions of the bill were correct.

The member for Mersey raised confusion for councils on what they need to assess DAs against. The councils are already going through the process of transitioning to the Tasmanian Planning Scheme. The DA decision requirements are already included in the current section 51(3) of LUPA. The bill just changes this to a decision being made against requirements at the time the DA was lodged. This makes it easier as rules do not change part way through the DA assessment.

The member for Nelson was talking about substantial modifications to the TPC decisions. The commission may only direct a substantial modification to an LPS under new processes if they believe it is suitable for it to be dealt with as an amendment to the approved LPS. You can see proposed section 35KB (2) which is on page 28 of the bill. It is at the TPC's discretion. It also must be in accordance with the LPS criteria currently in LUPAA.

The LUPA act currently applies this to substantial modifications directed to interim planning schemes and LPS amendments. It is now proposed to apply the same principle to directions to substantially modify a draft LPS. This is based on sound legal practice and is referred to at the Coty principle. The Coty principle takes its name from a well-known court decision which set a precedent for planning decisions. The decision noted that during the transition to a new planning scheme it was in the public interests to avoid making a determination that may contravene the planning requirements that are yet to take full effect. The commission's directed modifications are planning decisions it has made, that are yet to take full effect.

Still with regard to the member for Nelson, with the scope of interim SPPs amendments. Unlike the current open-ended interim planning directive process, the bill has clear criteria to clarify its role and limit its application. An interim SPPs amendment must be necessary to

urgently address issues relating to natural or environmental hazards, public health or safety matters or any other matters that may be prescribed in future regulations.

Furthermore, it must be in the public interest to give effect to the amendment as soon as practicable. The interim SPPs amendment process could be used in the future to implement:

1. Important updates to a current landslip coastal inundation or coastal erosion hazard overlay maps under the Tasmanian Planning Scheme.

2. A new statewide planning framework and overlay maps for mapping flooding hazards.

3. Important public safety requirements such as new buffer requirements for sensitive areas from hazardous facilities.

4. Requirements relating to public health, such as implementing broader exemptions for temporary hospital and medical treatment facilities during a pandemic or natural disaster.

There may be more. There is another one here for the member for Hobart.

The question was, why does not section 30NB(1) require that the minister must consult with the commission's interim SPPs amendments?

Section 30NB(1) provides that the minister may seek advice from the commission on an SPPs amendment as not all SPPs amendments will be intended for interim effect. In subsection (3), the minister is required to consider the advice of the commission before proceeding to make an interim amendment. Therefore, they must seek advice of the commission before determining to make an interim SPPs amendment.

Bill read the second time.

LAND USE PLANNING AND APPROVALS AMENDMENT (TASMANIAN PLANNING SCHEME MODIFICATION) BILL 2021 (No. 13)

In Committee

Clauses 1 to 7 agreed.

Clause 8
Part 3, Division 2, Subdivisions 3A and 3B inserted

Ms WEBB - I want to get a couple of things asked on the record and hear some further detail. I am looking at clause 8, 30NA(1) and then the list under (1)(a) of the different possibilities.

I would like some more clarification about those in the list which we then find later under (2), the ones where the minister must receive advice. I am looking at (iii), (viii), (ix), also (vi).

These are the ones, say (iii) for example. It says 'clarifying or simplifying the SPPs'. That seems like not necessarily a minor thing. It could be but it might not be. I would like to understand the full extent that we believe could be under this.

Say number (vi), where it is 'bringing the SPPs into conformity with a State Policy'. Currently, we do not have those state policies written so I would like to understand why that has been included given the uncertainty about what it would then apply to. They are not written yet. I am particularly interested, as I alluded to in my second reading contribution, not for you to give me the lightest touch that it could apply to. I would like to know what the most consequential example of that would be, or the potential impact, that you have anticipated in considering and including that in the list.

In terms of (viii) in that list, which is 'changing provisions of the SPPs that indicate or specify the structure to which an LPS is to conform or the form that a provision of an LPS is to take'. My understanding is that the form that a provision of an LPS might take could be specific area plans, particular purpose zone sites, specific qualifications. Those are quite a wide range of things, it would appear, that could be amended here and be considered minor.

I would also like to know what would be the fullest extent of that. What would be allowable under this number (viii)? In terms of number (ix), which is a prescribed purpose, that seems fairly broad so I would like to know what is anticipated potentially to be possible there?

I have another question on another part of clause 8. Would you like me to put that now too? I am also looking at clause 8(4)(a). This is that the minister may only make an interim SPPs amendment under subsection (3)(a) in terms of some or all of the provisions of a draft amendment of the SPPs, modified if at all as the minister thinks fit, if the minister is satisfied that, and (a) reads, 'it is necessary or desirable to make the interim SPPs amendment in order to urgently address issues relating to a natural or environmental hazard, public health, public safety or a prescribed circumstance or matter'.

We had some exchanges about that in the second reading speech. In the response that you provided, I understand and acknowledge that it makes sense to have this here in order to respond to a natural or environmental hazard, public health situation or public safety situation.

What I am interested to hear described more is why we have a prescribed circumstance there. So, that is the open-ended ability to add more to that through regulation. I would like to know what would be anticipated that would not be covered. What would be beyond the need for this urgency in this particular function, beyond a natural environmental hazard, public health or public safety measure? Those three things capture a very wide range.

What is beyond that that may be needed to have the open-endedness of a prescribed circumstance there? So those are the two parts of clause 8.

Madam DEPUTY CHAIR - Honourable Leader, that is 30NA and an NB? Is that correct? Just to keep up.

Mrs HISCUTT - I think we have nearly all that but as I work through that if the member could inform me as we go if we miss something and I will just seek advice.

I will make a start. Clarifying or simplifying a provision, criteria (iii) we are up to at the minute. This has been used to revise provisions in the SPPs to clarify their meaning without changing the policy intent. It may also include simplifying the wording in the provision to make it easier to interpret without changing the policy intent. These are usually done in response to queries from councils in operating with the provisions.

Criteria (vi) has not been used to date, as no new state policies have been prepared and the SPPs have been assessed and approved as being consistent with the state policies. It could be used in the future to align with SPPs with an amended state policy or a new state policy as required under section 13 of the State Policies and Projects Act of 1993. To add to that, we have three state policies, the protection of agricultural land, the state coastal policy and water quality management. This is not to be confused with the Tasmanian Planning Policies.

We then go onto criteria (viii), changing provisions relating to the structure or form of the LPS which has been used to revise the text identifier for a specific council's LPSs. It could also be used to revise the tables in the codes list - for example, it could be heritage place lists - to provide improvements to the presentation of the data already contained in the LPSs.

Criteria (ix) is prescribed by regulations and as yet there are no regulations and none intended at this point. Importantly, it is based on advice from the TPC and public interest must not be prejudiced by going through minor amendment processes.

Ms Webb - Can I clarify something, through Madam Deputy Chair?

Madam DEPUTY CHAIR - I am willing to give the member some leeway given that there is a number.

Ms Webb - It might be useful while the Leader is on her feet with that one, criteria (viii). You talked about the changes to form that is referred to as putting things into a different table or presenting information differently. That is what I heard you say. Was that correct? It does not change form in terms of -

Mrs HISCUTT - It has been used to revise the text identifier for a specific council's LPSs. It could also be used to revise the tables in the codes list, for example, it could be heritage place lists, and it provides improvement to the presentation of the data already contained in the LPSs.

Moving on to the next one. What other things could have been used to be prescribed? There is no current intention to further broaden the scope to make interim SPPs amendments by prescribing additional matters under regulations. However, as the last 12 months have shown having flexible legislative frameworks is important to manage swiftly evolving situations such as the COVID-19 pandemic and the current push to vaccinate against the virus and the ongoing housing pressures. The Government has previously used an interim planning directive to change the planning requirements to enable much-needed temporary housing options for those experiencing homelessness or on the brink of homelessness.

Ms Webb - The examples you have provided are all fine, they are all captured by the three things there that I have said I accept. I am interested to know what is anticipated that could possibly fall outside of those three.

Madam DEPUTY CHAIR - The member might let the Leader respond and then use your second and third call.

Mrs HISCUTT - I will finish this. There may be a need to further intervene in the housing sector in the future to implement immediate planning requirements. The capacity to provide for unforeseen issues through regulations is standard practice for futureproofing the legislation. The types of issues that might be prescribed could relate to emergency housing or climate change, for example. Any broadening of the scope is subject to normal parliamentary scrutiny on any regulations. I hope we have covered a few things there.

Ms WEBB - To clarify that last point, the example you gave is meaning to respond to climate change or a housing situation. What you must be saying is a situation relating to climate change or housing, for example, that fell outside of being a natural or an environmental hazard, a public health or a public safety situation?

Mrs Hiscutt - That is correct.

Ms WEBB - It is interesting to me that there would be a situation that relates to housing where this step has to be taken - when an interim SPP amendment is made by the minister under these circumstances, which are a lighter touch than might otherwise be the case to do with that planning and a housing matter. I have some concerns about that. We might not be able to address those concerns at this time; but when anyone does something substantial in relation to housing in the planning space, I understand we would already be capturing something that related to things such as natural and environmental hazard, public health or public safety. If it is outside those areas and it relates to housing, and it relates to a change to the planning made with the minister's discretion, that raises more question marks for me.

Could you provide more detail to the example?

Mrs HISCUTT - I will consult with my advisers here.

There are no more examples to give you at the moment. There is nothing in mind. Bear in mind that these regulations go through the Subordinate Legislation Committee. It could be an emergency housing or a climate change example - that is about all we could give you at the moment.

Ms WEBB - I am looking for more detail on that example. That is what I asked for. Can you explain how that example fits outside the other three categories?

Mrs HISCUTT - There is no other example. This is something that may be part of it but there are no examples there. There are no regulations planned. It is there as a contingency if needed.

Clause 8 agreed.

Clauses 9 to 22 agreed.

Clause 23
Section 87F inserted

Mr GAFFNEY - I am going to read in a question I had from the Tasmanian Conservation Trust about clause 23. Their comment is -

> That the proposed amendment is opposed and therefore clause 23 should be deleted.

The reason they give is that -

> The proposed amendments will allow the minister to direct parts of the SPPs to be given effect through changes to interim planning schemes. The scope of the change that is subject to the minister's directions are very wide and potentially have very significant impact. Inserting elements of the SPPs into existing interim planning schemes may have unintended and negative consequences. Bringing in these changes may result in developments being approved that would otherwise be prohibited or more highly controlled under the proposed LPSs.
>
> The exercise of the minister's proposed new powers are not subject to any public comment or independent oversight by the TPC and the recommendation from the group from the TCT, would be the proposed amendment is opposed and therefore clause 23 should be deleted.

I would like to hear some comment.

Mrs HISCUTT - For clarification, are you talking about clause 23 or 24? We seem to think you might be talking about clause 24.

Mr GAFFNEY - Yes, I think it has been changed. The actual clause has been added since the time that it was written so I do believe it could be clause 24.

Madam DEPUTY CHAIR - I will put the question again for clause 23.

Clause 23 agreed to.

Clause 24 -
Schedule 6 amended (Savings and Transitional Provisions - Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015)

Madam DEPUTY CHAIR - The Leader in response to the member's earlier question.

Mrs HISCUTT - That is the one thank you. I have read this into *Hansard* before for the member for Hobart, but it is the same answer so I will do it again.

We are talking about planning directives here, and there appears to be a significant misunderstanding in this part of the bill. The bill enables the minister to use a planning directive in the form of Interim Planning Directive No. 4 without following the normal

assessment process for issuing planning directives. This is because the provisions in Interim Planning Directive No. 4 relate to parts of the SPPs.

Interim Planning Directive No. 4 came into effect on 22 February 2021 on recommendation from the commission. It brought into effect some parts of the SPPs through the remaining interim planning schemes. The SPPs have already been subject to a comprehensive and open public process and assessment by the independent commission including 25 days of public hearings.

These provisions were approved in early 2017 and are already operating in several parts of the state as part of the Tasmanian Planning Scheme. Requiring a duplicated assessment of the SPPs would be an inefficient and costly exercise for the community, industry, and local and state government.

It is also unnecessary, given the provisions will automatically come into effect once each council's LPS is approved. This is why it is proposed to waive the normal assessment process that follows the issuing of an interim planning directive.

The SPPs are due for their five-yearly review in early 2022 and it is more appropriate for the SPPs to be considered in their entirety as part of this review rather than reviewing discrete parts through the assessment of the draft planning directive. I hope that answers your question and it seems to be that there is some misunderstanding on this part of the bill.

Clause 24 agreed to.

Clause 25 agreed to and bill taken through the remainder of the Committee stage.

ADJOURNMENT

[5.56 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, I move -

> That at its rising the Council adjourn until 11.00 a.m. on Thursday 1 July 2021.

Madam Deputy President, I move -

> That the Council does now adjourn.

The Council adjourned at 5.56 p.m.