

Wednesday 25 March 2020

At 10 a.m. the Speaker resumed the Chair.

**COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) BILL 2020
(No. 14)**

First Reading

Bill presented by **Mr Gutwein** and read the first time.

PETITIONS

Health Crisis - New Norfolk and Derwent Valley

[10.03 a.m.]

Ms White presented a petition from approximately 804 residents of Tasmania, requesting that the House call on the Tasmanian Liberal Government to introduce nurse practitioners at the New Norfolk Hospital and to advocate to their federal counterparts to reschedule New Norfolk under Medicare and the Modified Monash Model (MMM) to a level 5

Petition received.

Logging of Oldina Forest - Coupe OL037A

Ms O'Connor presented a petition from approximately 337 residents of Tasmania, requesting that the House instruct Sustainable Timber Tasmania to remove coupe OL037A from the Sustainable Timber Tasmania harvesting plan

Petition received.

BRICKMAKERS POINT LANDSLIP BILL 2020 (No. 15)

Second Reading

[10.06 a.m.]

Mr JAENSCH (Braddon - Minister for Environment and Parks) - Madam Speaker, I move that the bill now be read a second time.

The Brickmakers Point Landslip Bill 2020 provides a transparent legislative framework for delivering targeted financial assistance to owners of the five properties impacted by the 2016 Brickmakers Point landslide at Deviot in Northern Tasmania. The landslide was reactivated following the heavy rains that year, which caused extensive flooding across much of the state. Many members would be aware that the Brickmakers Point landslide has taken a substantial toll on these property owners - both financially and emotionally. One property has been rendered uninhabitable, and the others have all been subject to varying degrees of structural damage. After

consulting closely with the owners and the West Tamar Council, the Government has decided to offer an assistance package designed to support these individuals to recover from this destructive act of nature.

It is important that I state very clearly at the outset that this is not a compensation scheme. Financial assistance is being offered on compassionate grounds and not as a result of any legal liability on the Government's or the council's part for the damage caused by the 2016 landslide event. There is precedent for the Government to step in and legislate to support landslide affected communities with financial assistance in these kinds of circumstances. Indeed, key provisions of the bill are modelled closely on previous legislation for providing assistance to Tasmanians directly impacted by landslides, including the Rosetta legislation from 1992.

The core element of the bill is the establishment of a process whereby affected property owners can apply to have the Government make an offer to purchase their properties. Consistent with previous landslide assistance packages, offers will be made at 75 per cent of the relevant property's pre-landslip value, with that value to be calculated as though the property had not been impacted by landslide in 2016. Valuations will be done independently by the Valuer-General, and offers made by me, as the responsible minister. This is a voluntary, 'opt-in' scheme. There will be no compulsory acquisition of properties. Owners will not be compelled to apply for assistance and where they do apply for assistance they can then refuse the Government's offer if they so choose.

However, the bill does provide that any applications for assistance must be lodged within two years from the enactment of legislation. This gives affected property owners adequate time to consider their options, while making clear that this is a time-limited scheme.

The Government is acutely aware that these property owners have already endured significant stress and uncertainty over the past three and a half years. That is why the process we are proposing through this bill is simple, has clear time frames and provides certainty. The five impacted properties are specifically defined in the bill because the effects of the landslide on these properties are already well established. This means that, unlike some previous legislative schemes, there will be no requirement for property owners to go through a complex application and assessment process to prove their eligibility. They will simply need to write to the Government indicating they would like us to make them an offer to purchase.

Where property owners apply, an offer must be made within 90 days of that application, and the Government is bound by that offer. Property owners then have up to 90 days to accept or decline, so that they have adequate time to seek and consider their own financial and legal advice on the terms of the offer, and to make other living arrangements if they choose to accept the offer.

The bill provides that, where an owner accepts an offer for the Crown to purchase their property, the Crown and the council, and their representatives, are indemnified against any future action for damages. The intent is to prevent a person who accepts financial assistance under the legislation from then subsequently suing the Crown and/or the council for damages in relation to the landslide.

The bill also indemnifies the Crown and the council in relation to actions taken in good faith to manage or mitigate landslide on, or in the vicinity of, an affected property.

The legislative framework will be underpinned by a formal agreement between the Tasmanian Government and the West Tamar Council. I take this opportunity to thank the council for its support in assisting property owners and for its commitment to manage the landslide site going forward.

I can advise the House that the parties have agreed, in principle, to the following terms:

- the purchase price of acquired affected properties will be shared equally between the Government and the council;
- following acquisition, ownership of acquired properties will transfer to the council;
- the Government will fund demolition and remediation costs for all acquired properties; and
- following demolition and remediation, the council will have responsibility for ongoing land management in and around the landslide affected area.

The Government and the council are currently in discussions about the finer details of the agreement so that a binding deed between the parties can be finalised and executed at the same time as the proclamation of the legislation.

The intent and operation of this bill is straightforward. It seeks the parliament's endorsement of a targeted financial assistance scheme to support a small number of property owners whose lives have been severely impacted by landslide.

I ask members to support this bill so that those property owners who wish to move on and rebuild their lives elsewhere can be given the opportunity to do so.

Madam Speaker, I commend the bill to the House.

[10.12 a.m.]

Ms STANDEN (Franklin) - Madam Speaker, I rise to contribute on behalf of the Opposition in relation to the Brickmakers Point Landslip Bill of 2020. The Opposition will be supporting this bill.

I note, however, that under the extraordinary circumstances the parliament finds itself in that the timing and priority of this bill is, in my view, rather extraordinary. Given that we have suspended Standing Orders to debate this bill, one would need to be persuaded of its importance. I understand that landowners have faced considerable uncertainty over their properties for some three and a half years. I understand there was a report, the so-called Pennington Report, commissioned by council and reported in August of last year. I would have thought, if it were a very important bill, that it would have been tabled before now. I note under the provisions of the bill that landowners would have some two years to consider an offer under the terms of the bill and I remain unconvinced of the importance of debating this bill at this time, given that it would have taken substantial time from senior officers within DPIPWE, ministerial staff and the time of this parliament and parliamentarians.

Having said that, I thank officers from DPIPWE and DPAC for offering an urgent briefing to me and to the honourable Kerry Finch MLC yesterday. I take the opportunity to praise Mr Finch

for his strong advocacy in this area. I understand he is a resident in the area and is the local member but has strong relationships with landowners and has followed this issue closely. He has strong views and concerns for those landowners. I understand that after almost four years of uncertainty for those property owners, this is an opportunity to bring closure, or at least certainty, to those property owners at this point. I understand the point that the minister has made in regard to this bill being a compassionate bill and not one of compensation, per se.

There are a couple of questions I would like to raise for the minister's consideration. In relation to precedent, I understand that the bill's provisions allow for 75 per cent of property value. I understand that the principles of the terms have been consulted and agreed by a motion passed by West Tamar Council, and I will come to council matters. I understand that the finer details of that could still have a little way to go in finalising final terms but, in principle, those are agreed. Nonetheless, 75 per cent of property valuation is proposed to be offered as of 1 May 2016. This has come at rather a rush, so I do not know precisely when the landslip is alleged to have occurred. I understand that 1 May 2016 slightly predates the landslip timing in June.

I understand that the precedent for the 75 per cent valuation that goes back to Rosetta in 1992. I am advised of Beauty Point and a place called Lawrence Vale, and I am afraid I do not know where that is, in the 1960s or 1970s, which is a rather slim precedent. The principle here is that I think the Government's intention is to ensure a fair and reasonable outcome for property owners and, if it is the case that property values were higher on the 1 May 2016 than today, that seems to me a reasonable point. However, it has been pointed out to me that the Rosetta valuation was the date at which offers were made and that is at odds with the second reading speech alleging that this is consistent with that precedent. Could the minister please explain that and qualify?

I understand from the briefing provided yesterday, figures in the range of \$253 000 to \$360 000 for those properties were provided to me but they were in 2012 or 2014 in one or two cases. I would be pleased if the minister could take the opportunity to explain how that fits with estimated valuations as of 1 May 2016, which is proposed by this bill, and current valuations of 2020. There is a further technical issue here about what advice the minister has received from the Valuer-General as to whether it is feasible to provide an estimation of value at 1 May 2016, given that those valuations were completed in 2012 and 2014. I am not an expert and I do not completely understand whether it is even possible for the Valuer-General to provide that advice but, if it is, that provides me with some comfort.

I understand there are some 24 months for property owners to consider their position, which seems to provide adequate time for property owners to consider this properly. I am also further briefed that property owners could pursue civil remedies. It is not only an opt in process, so property owners do not have to agree to the terms of the offer if they believe that what is offered is unfair. This bill would not preclude the opportunity to pursue civil remedies.

In relation to property owners, my limited understanding of the circumstances of the landslip is that property owners were not aware of the landslip at the time of purchase, potentially. One person has told me they think there is a website available through government to provide some rating system or some kind of information to prospective buyers with regard to landslip risk. It is an area beyond my expertise. I would be pleased if the minister could outline how it is that property owners can become aware of landslip risk at the time of purchase and whether that is, at all, a consideration in the scope of this bill.

Another matter relating to property owners is simply one of consultation. The second reading speech indicates that property owners have been consulted in the development of this scheme and I understand that the opportunity was extended to some property owners to provide submissions to the Minister for Local Government. Has the minister, Mr Jaensch, had the opportunity to consider those submissions? I would like to know whether there were matters raised within those submissions that were pertinent and should be considered by the parliament today.

I am not certain, but it appears to me that property owners may not have been consulted on the purchase price model in particular. I am advised that one of the properties is untenable and vacant but other property owners are still living there. One or perhaps two are tenanted by people renting. None of that is consequential but, nonetheless, I would like the minister to provide some outline of what consultation there has been with owners and whether that has extended to the proposed purchase price model.

I am aware of a number of cases where there could be other cases of creating precedent in other areas across Tasmania, even today, including landslip but also potentially coastal erosion. I am interested to hear from the minister whether he feels there is any risk of this bill creating precedent for the state government, or other parties, in relation to coastal erosion and landslip. Could he explain any difference in his mind in relation to those two things?

The third area is improvements to properties. My understanding of the bill is that the valuation is at 1 May 2016 and that would preclude any improvements to the property after 1 May 2016. It follows that other costs in relation to rates and charges, for example, incurred by the property owners post-1 May 2016 would not be compensable, but I understand this is not about compensation but about compassion. I expect there would be some concern in the minds of property owners with regard to property improvements and other costs incurred post-1 May 2016. I am interested in the minister's comments with regard to that.

Finally, I understand that the council has passed a motion agreeing in principle to the four terms outlined within the second reading speech and reflected within the bill. I believe that the bill provides for the Crown to become the owner, in the interim, of the land and properties. If I am wrong about that could the minister clarify? That would then allow for the Crown to proceed with demolition works and the next step would be for the transfer of those properties to the council.

There is a question in my mind about that process. I do not understand what is in it for the council, other than to allow for a compassionate outcome for property owners. Nonetheless, that is a matter for the council and if they have agreed to the terms I am satisfied.

In the case that further remediation work was required - and I am not clear whether all properties on all those five titles would have to be demolished or what the case is. I understand that at least some of the property owners might have done some remediation works to shore up their properties in the interim. I raise the matter for that to be reflected within the purchase price. Moving forward from when the deed is settled, what scope is there for the state to assist the West Tamar Council with any further remediation work that would be required after the agreement is formalised, if any? It may be that there is none.

I thank officers for providing me with a comprehensive briefing and indicate again that the Opposition will be supporting this bill.

[10.26 a.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Madam Speaker, we also will be supporting the Brickmakers Point Landslip Bill. I am certain that the local residents in Deviot will be relieved that this legislation is going through the parliament four years after the landslip in that area on the West Tamar.

I agree with Ms Standen that there is a question mark over whether this is urgent legislation given that we are grappling with a pandemic and a suite of legislative and regulatory responses that will need to be put in place in order to keep Tasmanians safe and well and to assist vulnerable people in businesses.

I note that the affected properties are in the Legislative Council division of Rosevears which goes to election on 30 May this year and that the election date has been pushed back. I take this opportunity to again express our serious concerns that it is going to be extremely challenging to conduct a Legislative Council election in a time of pandemic. I accept that the date has been pushed back in order to give the Electoral Commissioner more time to put in place postal vote provisions and make sure that there are hygiene measures in place for TEC staff particularly. A wiser course of action would have been for the state to agree that the Legislative Council elections should be deferred. Still, that is not the case.

This legislation establishes a precedent for government to step in when property owners are affected by natural events, or events that are related to global heating. Over on the eastern shore in Lauderdale a number of residents who, in good faith many years ago bought properties on Roches Beach at Frederick Henry Bay, are now facing serious questions over how viable those properties are in the medium term. It raises an unresolved question about civil liability.

If councils and planning authorities are making decisions that place property owners at risk then they should be liable for civil claims in the future. The question, as it relates to sea level rise, for example, is if a planning authority makes a decision to allow a development in a coastal zone that is vulnerable to extreme weather events or sea level rise, the knowledge is there that sea level rise is likely to affect a particular town or region yet the council makes a decision to approve a development. In future, affected residents and locals should be able to lodge a civil claim against the planning authority that, despite having the knowledge of risk, still went ahead and made a decision to allow a development. I am not saying these are the circumstances in this case because obviously those properties on Deviot Road are quite long-standing properties; we have the List Titles here for them. However, Government needs to be very careful in stepping in to compensate property owners more broadly, in a time when there are going to be sea-level rise impacts, storm surge impacts, coastal erosion, and potentially, higher landslip risk, as a result of changing weather patterns.

I am interested to hear the minister's thoughts on how you deal with the precedent that has now been set, and will be set by this parliament.

I note that of the Titles that are affected, of the five properties that are subject to this legislation, one of them has a covenant on the land. Clause 11 of the bill is clear that covenants are to be of no effect. The particular property, which is Lot 2 on Sealed Plan 140817, has a covenant on subdivisions on that land. Clearly, this is land which will not be subdivided in future, as it is subject to landslide risk. I want to flag with the minister that we are aware of the move that is underway to undo the covenant system in Tasmania through the planning reforms. We have been contacted by people who have covenants over their properties. As we go through this local provision schedule

process, we are seeing titles and tenures change. It is our understanding that people who have over their properties a covenant for the protection of nature, for example, may have some challenges having those covenants protected.

We have information to indicate that the Department of State Growth believes that all covenants should be removed because otherwise, to have them in place would 'sterilise the landscape for potential future logging and mining'.

We have to stop this garbage. If people have a covenant over their property in order to protect it from logging and mining, the state must not step in, under the cover of planning reforms, to remove those covenant protections in one fell swoop. That is what is potentially happening here. We will be working with those covenant holders, and I know that the Planning Matters Alliance of Tasmania will also be working with those covenant holders to make sure they are aware that the Department of State Growth at least, by stealth, is trying to remove the protections that those covenants place on their properties.

I know we are in extremely challenging times and rightly our minds are wholly preoccupied with how we deal with this pandemic, but it does not mean, certainly from the Greens' point of view, that we will be taking our eye off this sort of conduct by government. It is shameful for the Department of State Growth to seek to have covenant protections on properties abolished in one fell swoop, and we know that is exactly what is happening. We will be keeping a very close eye on this situation.

This legislation should make it very clear to us, if we do not already know, how important it is for planning authorities, including councils, to make sure they have the most up-to-date information on risk. Through our risk matrix in the planning system, there is plenty of information now on the public record about landslip risk, erosion, sea-level rise, and bushfire risk. Councils need to be very mindful when they are making decisions not to ignore the evidence that is before them, and make a decision that places property owners and residents at potential risk in the future.

My mind just then went to a development which is, I understand, in the process of being approved, and if the minister has any more information on this I would be pleased to hear it, for the foreshore at Wynyard, right there on the sea. The State Coastal Policy of 1996, flawed and toothless though it has been made, is very clear about making sure that we are not developing right there on the ocean. Yet, here we have the Wynyard council in the process of approving, or has approved, minister, a high-density development, right on the foreshore at Wynyard.

The Intergovernmental Panel on Climate Change is really clear. We are heading towards, at the outer edge of the extreme scenarios as a result of global heating, potentially six metres of sea-level rise. If a council is going to make a decision to approve a development right there on the ocean, with that knowledge at their disposal, they will rightly be open to civil liability claim in the future. The Wynyard council should have a good think about that.

I ask the minister about how the Government is going to deal with the precedent that has been set, and also a little more of history of landslips in that area of the West Tamar. Are there other parts of that riverbank that are subject to similar landslips or the risk of similar landslips? In Rosetta here, many years ago now, a very similar situation happened.

With regard to the specifics of the legislation, it is all pretty straightforward. We have no need to go into Committee on this bill. I am certain Mr Finch is happy to see this legislation come

through the parliament. I am aware he has been agitating on behalf of these residents for the best part of four years. I still question whether this is urgent legislation in the circumstances we are in, but we will not be standing in the way of it.

With those few words, I indicate that we will be supporting the legislation.

[10.37 a.m.]

Ms OGILVIE (Clark) - Madam Speaker, I support this bill. I have a few comments to make in relation to how we do business as usual during what is a pandemic crisis.

I take a slightly different view to the previous speakers on what we need to do to maintain and continue government and parliament during this phase. This is the first example of a bill that has come through during the crisis. We need to be able to operate in parallel and be able to transact business as usual, as things matter to people. If my house was on the line, it is the most important thing that is happening to me today. Parallel processing is completely sensible and we can do it.

The difficulty is with the urgent and emergency bills coming before us, and they are dropping on the table very quickly without much time to analyse and read them. These are the biggest things that have happened in Tasmania, literally for a number of generations that our minds are truly on the bigger issues. That is the challenge.

The bill before us at the moment is entirely sensible. I do not have a huge amount of background about the nature of the landslip. I understand what we are trying to achieve here, which is to put minds at rest. There has been a long negotiation between government, including the council, and that this has traversed many years and a couple of sittings of parliament. That is my understanding. It is important that we bring it to the table today and get it through.

I do believe, and this is drawing on some background in tort law, and the question of damages and what councils might be subjected to going forward, these issues are ones for the courts. This is a question of what happens when there are reasonably foreseeable events - that is the test that is used - whether damages can be quantified and whether somebody can prove on the balance of probabilities that the council ought to have known that the damage would be caused.

Both speakers mentioned the concern around whether this sets a precedent. It might set a precedent for the Government in relation to wanting to put their hand in their pocket to sort people out. However, it has not come before the court so it is not forming part of case laws and so from that sense it does not set a precedent.

I agree that as times change, particularly around climate change impacts, good thought will need to be given to how we manage things fairly for people, particularly people who live and work and run businesses around the foreshore and in other areas, and farmers as well. Work around zoning and planning regulations needs to be done, so I agree with that.

The area I have concern with is in relation to clause 11, Covenants to be of no effect. That clause says:

(1) A covenant -

(a) restricting the use of an affected property; or

- (b) requiring the owner, or owners, of an affected property to undertake any work or other obligation -

ceases to have effect immediately before any purchase of the property by the Crown under section 9(1).

- (2) Subsection (1) does not apply in respect of a covenant relating to the provision of necessary services to other properties.

I wonder whether thought has been given to the full spectrum of the nature of covenants that can be applied to properties. In this scenario we are thinking about covenants around access and egress, utilities, probably water and those sorts of things. There are other covenants that can be applied in a financial setting either by banks, and perhaps also in relation to family law settings and those sorts of settlement details.

I am assuming that because you know exactly the properties and the number and who they are, that you have gone through that in quite a lot of detail. There is some comfort around that because I would hate to think that any of us were standing here today and we may end up with a result whereby one party or a divorced couple might end up in dispute if there was some issue around that. I assume titles are free and clear and that you have done all of that work carefully. That was really the only issue I wanted to raise.

I reiterate I am a strong believer in parliament continuing and government continuing. We need to do that. How we do that is the big question. We are working it out as we go. As I came to work this morning I happened to stop in for a takeaway at my local shop to keep the money flowing. We were all a metre apart, everybody was following the rules but there was a conversation and the conversation was, 'Look, we are Tasmanians, we will work it out'. That is what we have shown in this House. As a parliament, and as MPs, we have placed a lot of faith in the Government and a lot of leadership. We are watching carefully and we will be scrutinising all those elements but there is a lot of faith put in the Government to keep things going.

It is really important to keep everybody in this place - Labor, Greens, crossbenchers - in the loop. I will be pushing hard for that. In order to keep the day-to-day business of parliament running we also need to think about a concerted effort for digital access, online work, work from home, all of those elements. That is something that we are trying to show some leadership in with a degree of success out of my office. We are very happy to participate in that and to help whoever else we can help.

That is my view of the world. We are in it now. It is already happening. We are in the middle of managing a pandemic plus keeping the place going. Unfortunately for Mr Jaensch, his is the first bill to come through in that parallel pathway but needs must. We have to keep things going and get things done. I will wind up with that but I am a strong believer that we can manage both and we need to be able to keep the place running. Thank you for your time.

[10.45 a.m.]

Mr JAENSCH (Braddon - Minister for Environment and Parks) - Madam Speaker, I thank the three speakers for their contributions in their foreshadowed support for the bill. I agree with Ms Ogilvie that these are unusual times. This is also an unusual circumstance that we are addressing. In a week where we are making extraordinary decisions under extraordinary circumstances and, having a mind to the compassionate grounds for the actions we are taking in

many cases, similarly, this is a part of this bill and the intent of the package of assistance being offered to these five property owners.

The questions that opened the contributions from Labor and the Greens, in particular, relate to timing and priority. I agree this is an odd bill to have in the context of these emergency circumstances. However, the Government has actively triaged its legislative agenda to determine what it considered to be important to bring on this week.

We note that this is a bill that puts forward a response to a known small group of people who have been waiting several years for an answer. Their circumstances are deteriorating in terms of their property and their homes and also, under the current circumstances, their business, their livelihoods, there is uncertainty for them. So this bill is being brought as soon as we possibly could and before we rise indefinitely.

Ms O'Connor - It is not indefinitely. We are due to sit again in April. There should not be an assumption that there is an indefinite abeyance on parliament sitting. That is what they call a coup.

Mr JAENSCH - Madam Speaker, there is uncertainty and for people already facing uncertainty we wanted to put this matter to bed as soon as we were able and to give them an option to consider that for them may be coming at a very critical time for their families and their livelihoods.

Ms Standen - With respect, I would rather you turned your attention to homelessness in the current pandemic response.

Mr JAENSCH - Madam Speaker, for the five families who have been waiting for a response on this I am very pleased to have been able to bring this bill. I am very glad that it would seem that this House is prepared to accept it. I have some questions to answer. I am sure that for those five people this is a very high priority and they will be very welcoming of our response. We are bringing this bill as soon as we could to allay uncertainty as early as we could for those affected on compassionate grounds.

I note that Ms Standen referred to the fact that there are two years for property owners to respond and that might be a reason why this does not need to be brought on in a rush. At any point that we introduced the bill and brought it forward and made an offer, there would be two years within which that offer could be made and considered by the landholders. That does not reflect its urgency in this place. It would be a condition of the bill whenever it was brought forward. I note that as soon as this bill passes through both Houses and is brought into law that the property owners can respond immediately. To some of them that may come as important relief.

There was a lot of discussion about precedent. There were questions about the various mechanisms that have been borrowed from previous acts and episodes and brought into this.

In response to Ms Standen's question about when the landslip occurred, I understand there were extreme rain events during May 2016 and there were land movements in this immediate vicinity in the later part of May and June. I am told it was considered that the beginning of May was a time when you could put a line in the sand and determine that it was prior to this landslip, so that we could put a marker in place there.

We also note that there needed to be some certainty in valuation process as to how we set a value, noting this is not compensation. It does not seek to reflect specific values but it needs to have a guide. We chose 75 per cent based on what had previously been established as reasonable. We established 1 May and pre-landslip value as an unambiguous time and point around which valuation can be established without any requirement to speculate on the changing values of land, which, hypothetically, may have happened between then and now - particularly considering, for example, the very current circumstances we are in and the effects that may have on property values as well. This not being compensation, this being a discretionary payment being made by this parliament, we needed to arrive at some certainty about how we calculated that. That was what was recommended to us prior to the interdepartmental committee that had been working on it and that is why it was chosen.

Ms Standen is correct. The landholders can pursue civil remedies during the period in which this offer is available to them but, as I understand it, the offer in itself is not subject to negotiation with them. There has been consultation with the property owners over many years in regard to this being developed but the terms of setting of the payment and sharing of costs with council have been undertaken with the council, primarily. The landowners are aware of what is being considered but are not a party to those arrangements. They will be able to request that an offer be made and have their opportunity to assess that for themselves in the next stages, assuming the bill progresses.

Ms Standen - By interjection, would an offer be made as a matter of course or do property owners have to request an offer be made?

Mr JAENSCH - The process is that the property owners request, that they activate this individually and they ask that the Government make an offer. The Government then engages the Valuer-General to establish the value of that offer based on the mechanism that is outlined and we do not specify the Valuer-General's process for doing that. That is the Valuer-General's remit to do that. That value binds us; it is not for negotiation, up or down. It is a take or leave, but there is time within which the landowner will have the opportunity to make their own decision about that, which is 90 days. The owners have two years within which to activate this and another 90 days to decide, once the offer is made.

I go to the Crown purchases from the owners, undertakes remediation, and transfers to the council for their subsequent ownership and management of the land. There was a point of clarification requested about that process of transfer.

There is some finer detail on that. Whilst the principles have been agreed, the timing and the sequencing of that and the conditions of that are subject to our further work between the council and the Crown. It does not involve the landowners directly at that point, and it is not covered in detail in this bill. It is a separate matter we will engage with the council on.

Moving to Ms O'Connor's questions: this matter of urgency and why this week? There is no elaborate conspiracy here -

Ms O'Connor - I am not saying there is an elaborate conspiracy.

Mr JAENSCH - There was a small insinuation -

Ms O'Connor - No, I said it is not urgent.

Mr JAENSCH - It is urgent for the people whose homes are affected and who have been waiting. This is the first opportunity to bring it on and we did not see that there was a good reason to keep them waiting any further than we needed to, given that we are doing this on compassionate grounds.

Regarding precedent, I note also that we have drawn on previous cases for elements of this bill. I also note that this is a decision of this parliament, using its discretion on compassionate grounds. It is not a policy regarding compensation. This is a decision by this parliament on compassionate grounds for a discretionary payment to a group of people and having regard for their particular circumstances. I expect that future parliaments faced with situations will take advice, precedent -

Ms O'Connor - You will concede that by delivering an act of parliament to deal with this specific situation, that we are setting a precedent for state and local governments to step in to help out affected property owners who have been subject to a natural hazard event.

Mr JAENSCH - I argue that this bill is based in part on a precedent that already exists and where I am thinking about the future, is that the other matters that Ms O'Connor raised in her contribution have to do with where we are going next.

What I point to, is that the circumstances that we are addressing here may be changing in the future. Certainly, climate change has the potential to create new and different forms and different frequencies or severities of events. That is why, for example, in the future and probably now compared to even in 2016, the hazard mapping undertaken by MRT and available to councils and to the public now, is now on the public record as you noted and is of far higher quality.

The Tasmanian Planning Scheme provisions that are coming into force, and the Tasmanian Planning policies which we are about to build, include specific references to natural risks and hazards with regard to climate change. The best available information is getting better and is increasingly being built into our regional land use planning, our planning policies and our Tasmanian Planning Scheme.

With regard to events like this, one would hope that there is less of a need for these sorts of responses in the future because there is better information -

Ms O'Connor - You still have councils approving developments right on the ocean. Do you want to go to that question? It is very relevant.

Madam SPEAKER - Order, Ms O'Connor. I have been very tolerant under the circumstances, but we do have to go through the Chair.

Mr JAENSCH - On the matter of covenants on land, I have considered, as you were speaking, Ms O'Connor, the reference to clause 11 regarding covenants. I believe that you did not have any concern with their application in this particular bill -

Ms O'Connor - Certainly not.

Mr JAENSCH - In regards to this bill, I will step over that one, because I do not think it is a problem with this bill.

Ms O'Connor - Through you, Madam Speaker, perhaps the minister could address the issue of all covenants potentially being erased under the Planning Scheme reforms which is what we understand to be the case.

Madam SPEAKER - That is up to you, minister.

Mr JAENSCH - Madam Speaker, I do not think that is part of the discussion on this bill.

Ms O'Connor - Thank you, you have just answered the question.

Mr JAENSCH - I have made my own notes on the comments that the member has raised. I do not quite understand what precedent or cases she thinks she is referring to.

Ms O'Connor - Perhaps you ought to check with Mr Evans in State Growth.

Madam SPEAKER - Order, Ms O'Connor.

Mr JAENSCH - I do not intend to spend much time on it here, but I note the matter that she raised and I have to get my own advice on that.

Ms Ogilvie, thank you for your contribution as well, and your commentary around the precedent or otherwise. I take on Ms Ogilvie's comments regarding the covenant matter. I believe, in this case, the issue around the interests in, and the encumbrances, or otherwise, on those blocks of land, given the circumstances of the known ownership and of the finite number of properties and their participation in this package, and the fact that the future use of that land will be determined by council as the owner of that land.

Ms Ogilvie - Through the Chair, you are really articulating that you have gone through those titles very carefully, already, and I am getting nods.

Mr JAENSCH - I understand those titles are well known and there is low risk of complications arising from that clause to remove those covenants in this case. Obviously, it is a very worthwhile consideration. We know these properties very well, as a basis for proceeding with this.

I agree with you that we need, and we are going to need, to be nimble and innovative, and flexible, in how we accommodate the range of types of businesses like this that will land themselves in amongst our extraordinary management of parliament. We are learning as we go.

Compassion will always be a very important driver. We are going to have many decisions that we are going to need to consider on compassionate grounds, and I believe the good will in the parliament with regard to the circumstances of our citizens, but also our obligations to deliver for them well, will serve us well as we go through this next difficult period.

Madam Speaker, I thank colleagues for their contributions. I commend the bill to the House.

Bill read the second time.

Bill read the third time.

SUSPENSION OF SITTING

[11.04 a.m.]

Mr FERGUSON (Bass - Leader of Government Business) - Madam Speaker, I move -
That House be suspended until the ringing of the Division Bells.

Sitting suspended from 11.05 a.m. to 12 p.m.

EVIDENCE AMENDMENT BILL 2020 (No 4) CRIMINAL CODE AMENDMENT (SEXUAL ABUSE TERMINOLOGY) BILL 2020 (No 5)

Bills returned from the Legislative Council without amendment.

APPROPRIATION (SUPPLEMENTARY APPROPRIATION FOR 2019-20) BILL 2020 (No. 10)

SUPPLY BILL (No.1) 2020 (No. 11)

SUPPLY BILL (No.2) 2020 (No. 12)

Bills returned from the Legislative Council without request and without amendment.

COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) BILL 2020 (No. 14)

Second Reading

Mr FERGUSON (Bass - Minister for Infrastructure and Transport) - Madam Speaker, I move -

That the bill be now read the second time.

The bill I am introducing today is essential to support the continuity of government services, and key regulatory functions, during what is likely to be a period of significant social and economic upheaval for all Tasmanians.

The health and wellbeing of Tasmanians is the Government's highest priority as we face the significant challenges presented to us by the spread of COVID-19. As I have said before, we will continue to put the health and safety of Tasmanians first as we work to support business, jobs, families and the community through these difficult times.

We are already seeing the significant impacts of coronavirus in Tasmania. As of 24 March, there were 36 cases of COVID-19 confirmed in the state. At the meeting of the National Cabinet last night, further actions were agreed to support social distancing measures for non-essential

gatherings that were already in place to protect the Australian community from the spread of the disease.

This bill introduces a range of measures to reduce the risks to the state, and the risk to, or hardship suffered by our community, as a result of the spread of COVID-19 in Tasmania. The bill will ensure that key regulatory requirements of the state, and the administration of law, can adapt to the unique challenges that the COVID-19 presents to both governments and the broader community.

There is no doubt that the COVID-19 pandemic will affect the business of government and its interaction with statutory entities, private businesses and the community. This bill is designed to support state and local government entities to quickly and effectively respond to this unprecedented public health emergency. It also puts in place measures to support the community in complying with various legislative and regulatory provisions. The pandemic situation is likely to continue to evolve rapidly, and governments at all levels need to be ready to respond to support our communities.

There are areas of law that were simply not designed to work in the kinds of circumstances that we are likely to face as this emergency unfolds. The bill contains a range of provisions that aim to provide for the continuation of public administration, the reduction of public physical contact in relation to public administration, and which address financial hardship.

The bill also contains provisions that allow for the amendment of permit provisions, and it provides the power to exclude the application of planning laws where a development or use of land is necessary to implement or comply with a requirement, direction or authorisation under the Emergency Management Act 2006 or the Public Health Act 1997 under a state of emergency. In short, this bill is about getting us ready so we can act on the advice of the experts, and act promptly, where and when we need to.

At its centre, this bill provides a power for the Premier, the Treasurer and the Attorney-General to make declarations by public notice to adjust the operation of a range of statutory requirements in legislation. I will outline these changes, briefly:

Except for a number of specific matters identified in the bill, these powers may only be exercised where the State Controller (where a state of emergency is in place) or the Director of Public Health has given their approval.

The bill also provides for the Attorney-General to make notices where the Chief Magistrate, Chief Justice or a head of a tribunal or other relevant entity has requested changes to reduce public physical contact, including to ensure that hearings are not required to be held in public where they are held in accordance with terms set out in the notice.

Under the bill, notices may be issued in relation to any of the following matters, to alter the technical requirements that may otherwise apply under an act or an instrument of a regulatory character:

- the extension or reduction of statutory time frames;
- the amendment of provisions of planning permits (or other permits, as prescribed by regulation);

- the application of planning law in relation to land developed or used to support actions taken consistent with a requirement, direction or authorisation given under emergency management legislation;
- the extension of State Service and statutory office appointments (up to a maximum of 12 months);
- actions (including meetings) that would otherwise be required by law to be taken or conducted in person and/or in the public (including local council meetings);
- the conduct of court and tribunal proceedings;
- the waiver or deferral of fees or charges levied under legislative instruments;
- the application of certain shop trading hour restrictions (for example, Good Friday trading); and
- processes for the public exhibition of documents, and Gazettal requirements.

To ensure the continuous operation of the law, the bill also provides that regulations and rules that are due to expire in 2020 will be extended for a further 12 months from their expiry date. These instruments provide for the day-to-day administrative requirements and procedures of significant areas of the state's law. The bill ensures 12 months additional time is available for the instruments to be reviewed and remade as required.

In addition to the broader power to make a notice to defer or waive certain fees and charges, the bill contains specific financial hardship provisions that allow the minister to void lease terminations and rent increases for commercial tenancies, and provide for the waiver and refund of the annual administration fee for taxis and hire vehicles for 2020.

Madam Speaker, there are likely to be a range of situations where, in order to support the emergency response to the COVID-19 pandemic, the Government will need to use the proposed notice powers to temporarily override conditions that would ordinarily apply under the legislation areas covered by the bill. For example:

- it may be necessary to relax planning permit restrictions on delivery times for supermarket restocking to ensure that community demand for groceries can be met, and we may need to allow the major supermarkets to open on Good Friday, despite current shop trading restrictions;
- the Government may need to waive or extend the time frames for the payment of certain fees and charges for members of the community who are struggling financially;
- certain statutory officers and categories of State Service employees, such as registered nurses, may need to have their appointments extended without the usual processes, so they can continue to deliver their crucial functions for the community; and
- meetings and proceedings that would ordinarily require physical attendance to be legally constituted might instead need to be conducted remotely by electronic means such as videoconference.

The heads of power provided for by the bill are deliberately broad, so as to allow for the relevant details to be specified by notice. These notices can then be amended or revoked in response to rapidly changing circumstances. Flexibility is also the reason why the bill provides that the power to make notices can be delegated to other ministers. It is possible that a number of notices will need to be made covering a range of legislative instruments in the areas specified by the bill. It is prudent and appropriate to allow for ministers to make notices in relation to their respective portfolio areas. Delegation also reduces the continuity risk that could arise if the power rested solely with a single minister.

Madam Speaker, I have said this bill aims to support and ensure continuity of administrative law and government regulation and services during the COVID-19 emergency. That is true, but it also includes a number of targeted consequential amendments to the Emergency Management Act 2006. These amendments provide for the following:

- a power of arrest for failures to comply with directions/requirements made under emergency powers. This applies to offences relating to emergency management workers under the Emergency Management Act 2006, and the 'emergency powers' requirements in the Public Health Act 1997;
- increasing the maximum term of imprisonment for offences under the Emergency Management Act 2006 to equate with those under the Public Health Act 1997;
- extending to 12 weeks the time for operation for directions issued under the Emergency Management Act 2006; and
- the suspension of the operation of the Personal Information Act 2004 in relation to the exchange of information between state agencies, and between state agencies and Commonwealth agencies in relation to the emergency.

The advice from the State Controller is that all these measures are crucial in supporting the emergency management response at an operational level.

With respect to arrest powers, of course we would hope, and indeed expect, that the community will cooperate with any direction that is being made for the sake of public health. However, our front-line police officers need to be able to ensure it has the necessary powers and authorities to enforce compliance where there are flagrant breaches that put the broader community at risk.

Finally, I would like to specifically outline the important provisions that we have included in this bill protect tenants, particularly those who are experiencing hardship from a loss of income as a result of COVID-19. This will be achieved by altering the operation of certain provisions of the Residential Tenancy Act 1997 for the period of the emergency. The emergency period will commence on the date the COVID-19 Disease (Miscellaneous Provisions) Act 2020 commences, for an initial period of 120 days. The minister may extend the period for 90 days by issuing an order under the act.

The minister may make as many orders to extend the emergency period as the minister deems necessary to reasonably mitigate any significant, widespread hardship caused, or likely to be caused, to a significant number of tenants by the presence of COVID-19 in the state. Against the same criteria, the minister must, when satisfied that the provisions enabled by the emergency period are no longer necessary, declare the emergency period has ended.

During the emergency period, there will be a moratorium on the eviction of tenants for breaching a condition of their residential tenancy agreement, where that breach relates to rent being in arrears. A property owner will not be able to issue a notice to vacate for this reason during the emergency period. In addition, a notice to vacate relating to rent arrears which was given prior to the commencement of the emergency period will have no effect during the emergency period, if the tenant is yet to vacate the property. This will effectively put on hold any appeals from tenants for a notice to vacate that are currently waiting to be heard by the Magistrates Court.

At the end of the emergency period, a property owner will be able to issue a notice to vacate in the normal way if the tenant continues to be in breach of their residential tenancy agreement. At this time, a property owner will be able to recover any outstanding rent from the tenant's bond or, in the event the amount exceeds the bond, through civil proceedings, just as they are able to do now. This ensures that tenants have the incentive to continue to pay rent during the emergency period, where they are able to do so.

Social distancing is key to reducing the likelihood that COVID-19 will spread within the community. As such, the bill also includes commonsense amendments to reduce the need for third parties to enter a rental property. Amendments will be made to reduce the likelihood that tradespeople will enter a rental property. This will be achieved by removing the 28-day requirement for general repairs for the duration of the emergency period. No changes will be made to the arrangements for emergency and urgent repairs, as these are necessary to ensure the health and safety of tenants.

Further, changes will be made to reduce the ability of a property manager or owners to inspect a property during the emergency period. This will be limited to inspections which relate to urgent repairs and emergency repairs and other limited circumstances.

We are also amending the act to make clear that a residential tenancy agreement can be varied by mutual agreement of the tenant and landlord. This makes it absolutely clear that a tenant and landlord have the power to agree to changes to their agreement, such as a reduction in rent. Any such agreement will be taken to form part of the residential tenancy agreement.

We are also introducing provisions to enable tenants or owners to break a fixed term lease if its continuation would cause the tenant severe hardship. To access this, the tenant will need to make an application to the Residential Tenancy Commissioner, who will consider the application and can issue an order to terminate a lease. These changes, which are similar to existing provisions in other jurisdictions' residential tenancy legislation, will ensure that individuals cannot be 'locked in' to a residential tenancy agreement that they can no longer afford, or no longer need, as a result of the impact of COVID-19. These changes will also assist tenants experiencing hardship when having conversations with property owners regarding potential reductions in rent.

There is no question that this is an extraordinary bill in response to what are extraordinary times, while preserving safeguards such as parliamentary review.

I want to reassure the parliament and the community that there is appropriate accountability around the use of the new powers in this bill and that proposed powers to override existing legislative provisions will only be able to be exercised where there is a clear, genuine and pressing need to do so as part of our response to the COVID-19 emergency, on the basis of expert advice.

This is why there are a number of checks and balances built into the bill:

- first, a notice may only be issued if it is approved by the State Controller (where there is a State of Emergency) or the Director of Public Health. The only exceptions are those notices that relate to economic hardship matters and notices that deal with the proceedings of certain courts. Certain notices relating to courts and tribunals can only be issued if required by the relevant presiding member, such as the Chief Magistrate or Chief Justice;
- second, notices cannot be made for a reason that is unrelated to the pandemic situation. It must be based on the opinion of the relevant minister that it is required to manage risks associated with the transmission of the disease itself, to manage the impacts of the restricted movement or other elements of the emergency response, or because there are not enough people available to carry out the relevant function as a consequence of the pandemic and/or the emergency response. The exception to this is those notices relevant to economic hardship matters, which can only be issued by the Treasurer if the economic effects of the emergency make it necessary or desirable;
- third, notices will be tabled in the parliament within three sitting days of being made, and subject to scrutiny by the Subordinate Legislation Committee as though they are Regulations;
- fourth, the 'emergency cessation day' must be declared by the Premier within 90 days of receiving advice from the Director of Public Health that it is no longer necessary to continue to allow for declarations to be made under this bill. Once this advice is received, the Government has to act on it; and
- finally, any remaining notices are taken to be automatically revoked 60 days after the emergency cessation day, and can only have effect for a maximum of 12 months from their commencement.

As Tasmania continues to deal with the COVID-19 pandemic, there will be disruptions to the day-to-day business of Tasmanian Government agencies, statutory authorities and local councils. We must do what is needed to minimise these disruptions and their flow-on effects to the community. As we can see today, the parliament itself is already having to adjust to the realities of the pandemic. We need to be ready.

The changes this bill will affect are 'mission critical' to the Government's broader emergency response effort. I would not be introducing this legislation otherwise.

I implore members to support this bill in the spirit of a unified parliamentary effort to deal with this unprecedented public health emergency.

Madam Speaker, I commend the bill to the House.

[12.19 p.m.]

Ms WHITE (Lyons - Leader of the Opposition) - Madam Speaker, I thank the Premier for the ability you have offered us to speak with you frankly about what we think can be done to support Tasmanians during this difficult time and to be always available for us. It must be an incredibly tough job and you probably have 100 people in your ear, so I sincerely thank you for taking the time.

I also thank your staff as well. It has been a very challenging time frame to meet to get this bill to the parliament and they have done an extraordinary job. We were provided with a briefing yesterday. I have to say Robyn, it was the best briefing I have ever had. Thank you, in what is a very tough time for everybody.

I recognise how hard it has been and there are some things I will raise during the debate that I hope can be clarified with respect to specific clauses. They are not insurmountable. Given the nature of drafting something so quickly, I figure these were always likely to occur.

I acknowledge how disruptive this time is for so many people. Everybody has been impacted and there are, sadly, thousands of people out of work today who last week would never have comprehended that this would be their life: people whose lives have been turned upside down, with long queues at Centrelink, long waits on phone calls, crashing of websites when people are trying to seek some income support at a time when the rug has been pulled out from under them, and it is heart-breaking. Many people are feeling very anxious and stressed and there have been many tears and that is normal to expect in a time like this.

The Premier made an announcement last week about additional resourcing for mental health services. I encourage people to take up the option if they feel it is necessary, to please look after themselves and their loved ones because that is the most important thing right now. That is why we are all here, doing what we are doing. It is about looking after one another and everybody in our community, to limit the impact of this virus on people, to make sure we save lives, but also to support people so they are not facing poverty or homelessness during this crisis.

I have had lot of heartbreaking conversations with people over the last week or so about what these changes mean for their livelihoods. I am sure every member here and everybody in our communities have. That is what we mean when we say that we are all in this together, because it is affecting every single one of us and that is why it is so necessary for us to act with compassion and kindness and to support one another during this difficult time but also take responsible action, so we do not inadvertently spread this virus, to restrict the impact it is going to have on the health of our loved ones and hopefully reduce the number of deaths we see.

I will mention some of the supports announced by the federal government that go alongside the announcements the state Government has made, and point out that they are not enough and they are not coming quickly enough for those people who have lost work. The measures announced by the federal government fail to adequately support workers and businesses, when there is a wait until 27 April for people to get the jobseeker supplement. It simply is too long. People are losing their jobs today and they have bills to pay, families to feed and they have no idea how they are supposed to do that when they have to wait until 27 April to get that supplement.

The additional \$750 announced by the federal government is welcome but that does not arrive into people's bank accounts until 1 April, as though that is some sort of sick April-fool's joke, but sadly it is not. It is simply not enough and it is not coming quickly enough to support those workers who have lost everything. There are massive gaps and many people are seeing dramatic falls in their weekly earnings because they cannot maintain hours or employment and they have had to fall back on friends and family or the welfare system at this really difficult time. I emphasise, again, the need for us to do everything we can here.

The Government is thinking about how that can be done but I also urge our federal colleagues to do more to look after all those people, especially working people and businesses who have lost

their livelihoods. The more we do now to support those people, the more chance we have of helping them with the recovery once we have dealt with this. Relief from the cost of bills and taxes is one thing, but putting money in pockets is the best way to keep them going right now and help the economy continue to operate.

I commend the Government for this bill, but perhaps there is an opportunity for the Premier to explain what it will mean for people. You simply did all regulatory things that are required and it will help ease the pressure on households. This is what we have been discussing with you and we thank you, because you have found a way to provide for no forced evictions for residential and commercial tenants. That was a very challenging one to overcome in law, so congratulations, because that will really help people, particularly those people who have commercial tenancies and are wondering how they are going to pay those costs. There are many of them. This will give them some peace of mind. It will do the same for all those people who are in private housing and were wondering how they were going to pay their rent. I acknowledge there is a provision within the bill that if anyone has been issued with an eviction notice prior to this becoming law, they will also be protected. Thank you. That is really important.

Also, this bill does a number of other things you will be talking about tomorrow, but I want to make sure people are aware as they are making decisions about their lives today. It will help ease the pressure on water and power bills. You are talking to local government about rates. On that matter, I urge you to work with those local governments that do not have the capacity to fund that, to see whether it can be funded from the state's balance sheet. There was a provision of \$150 million made yesterday in the supply appropriation bill that was not allocated for any specific purpose.

We do not want to see job losses in the local government sector. Given the revenue constraints a lot of local governments have, it would be tough for them to be able to provide rate rebates, or a freeze on rates, at this time. I ask you to work with them to see whether we can, as a state, fund that requirement. They are then not put in a position where they have to choose to provide a rate rebate or continue paying their staff. We all need to do whatever we can to save as many jobs as we can. If there is a way we can work together to do that, I would appreciate it.

Yesterday, I asked you a question in this House about the public sector workforce and I was pleased that you responded to that. I will read it into *Hansard* to provide an explanation for people who might not have the opportunity to go back and look at that. The question was about how vital the role of the public sector becomes during this crisis, more important than ever before -

Mr Gutwein - They get special leave, not personal leave.

Ms WHITE - Thank you. This role is particularly important, given the relative importance the Tasmanian Government's role in the economy in comparison to other states. The question was -

During these uncertain times, will you guarantee that every public sector worker, including permanent, casual and fixed-term contract positions, will keep their jobs and have their wages, conditions and regular weekly earnings maintained into the future? Can you reassure casual employees in the public service that they will continue to receive their normal and regular weekly earnings if they need to self-isolate or are restricted from attending work? Can you guarantee that existing contracts for service and work will be maintained for the private sector?

I was pleased to hear the Premier's response, which was -

Yes, those employment levels will be maintained. Regarding casual employees, I spoke with DPAC last night to look at extending personal ...

That is, special leave -

... conditions so that they would be paid if they need to self-isolate. It is only fair and reasonable that we do that. My expectation is that we will be one of the few employers in this state hiring during this period. It is important that we maintain that workforce because there will be a herculean task we will need to ask of our public servants. I thank all agencies, noting that many of them are being asked to do tasks that they would not be doing on a normal, day-to-day basis. The intention is to ensure that our public sector workforce remains and that we will support our casuals. Importantly, we would need to hire more people into the public sector as we progress.

In relation to the private sector, especially infrastructure, the Premier said that -

... we will ensure that we put those contracts to the market in a timely way. The focus of last week's package was to ensure, as opposed to having shovel-ready jobs out there, that we have screwdriver and paintbrush ready jobs, which lead to a lower level of procurement rules in ensuring we get that work done quickly.

Thank you for your indulgence. It is important that it is a demonstration that the parliament and the Government are being leaders in maintaining employment for all of their workforce, and that is going to be critical at this difficult time, with the commitment from the Premier, particularly regarding casuals and part-time, fixed-term employees.

We also need to do everything we can to support those who are on the frontline, especially our health workforce and those who are doing the huge task of cleaning to make sure we are all safe. I recognise the work of our cleaners across all of our buildings, who are making sure we have what we need to continue to do our work and that the health workforce is able to do its work safely, too.

I want to touch on the public health response. A number of calls from public health professionals were published in newspapers here in Tasmania during the last week, full-page ads that were taken out. We have a letter issued by health professionals yesterday, written to the Premier outlining a number of things that could be done with the intention to support Tasmanians to resume a normal way of life sooner if it is possible.

Some of the recommendations that were made in the letter that was offered to the Premier yesterday as part of Tasmania's three step plan as outlined by these doctors, included:

- (1) a complete shutdown of schools, face-to-face workplaces, health facilities only for urgent cases, pharmacies only for deliveries, online booked reserved supermarket time, et cetera, for two months to give everyone certainty and stop the virus spreading;
- (2) enforced medi-hotel quarantine for all interstate travellers, recently arrived cruise ship passengers, and every person testing positive for 14 days; and
- (3) widespread testing of anyone symptomatic or anyone in close contact, retesting the high risk contacts three for four days later, allowing GPs, nurses and other health

professionals utilising private rather than just the Royal Hobart Hospital testing machine and continuing aggressively tracing contacts and putting out any 'hotspots'.

These are public health professionals who have been urging the Government to do more and we continue to urge the Government to do more. We have given our commitment that we will back you every step of the way for every decision that you need to take. I hope you know that and I think you do know that.

Mr Gutwein - I know and I understand that.

Ms WHITE - I recognise how difficult things are and there has been enormous disruption to people's lives but the primary focus for us all now has to be on saving lives. Given the circumstances in Tasmania and the fact that there is a difficulty in procuring PPE and other equipment that is really necessary, we have to take other interventions that are going to limit the spread of the disease and support our community to stay well. This is why we have been calling for the closure of schools, except for reasons to provide education services to essential workers in line with the United Kingdom guidelines. They also look at how to support vulnerable children, recognising that is really important too.

Mr Gutwein - I think we are pretty close now.

Ms WHITE - It is true we are getting close now but it is also about clarity of message. That is something many people feel confused by. There are a lot of mixed messages in the community, particularly for parents and children who are being told it is safe to go to school. That is the message they are hearing: it is safe to go to school but it is not safe to play sport on the weekend. You cannot have more than five people at a wedding, you cannot have more than 10 people at a funeral, but it is safe for hundreds of children to go to school together.

It is not just about the children; it is about the teachers, the support staff, and the bus drivers. We know that everybody is at risk of catching this virus. There is no special dispensation for somebody because they are younger. It does not discriminate. Whilst young people are less likely to have adverse consequences from the virus, they are not immune to serious health consequences. In some cases, there are young people who have died and there are older workers in our schools who are exposed.

There are ways for us to solve these problems by making sure the Government works with the workforce to identify those teachers who might be able to transition to online learning to make sure the classrooms are staffed with those who are less likely to be at risk to provide education and care for those children who need it right now because their parents are responding to the crisis.

It is possible to do all of these things without sending mixed messages about what is safe and what is not safe by saying very clearly that everybody who should stay home should. If you can work from home you should; if you over 60 and you have an underlying health condition or a vulnerability you should stay at home for your own safety. In cases where that is not possible, for whatever reason, we will support you. The clear message now has to be, please stay home.

The mixed messages are confusing people and that is increasing people's anxiety. It is the uncertainty that is causing the concern. There is adequate research from medical professionals and the Imperial College London has done some excellent papers on this. There has been a number of other well-researched articles by clinicians and other professionals that demonstrate the closure of

schools is an effective tool to limit the spread of the virus. We should be doing everything possible to do that here in Tasmania.

I wanted to speak about some other measures before I go onto the bill, and that is about some recommendations or suggestions that were put forward by the AMA yesterday, picked up as well in that letter I read out to the Premier to use medi-hotels to quarantine people who have been tested to ensure there is adequate self-isolation and quarantine. It is good that you are now saying if somebody is in self-isolation in a home the whole family is in isolation so there is less confusion about that. However, medical experts from other countries also identify if you can remove that person from that environment you limit the risk of infection to other family members. Unfortunately, that is likely to occur. So it is about limiting the risk of spreading the virus further.

The AMA's suggestion is sensible and it also provides support to the hospitality sector at this time. There are a number of vacant rooms. As long as they can be provided with appropriate resourcing and training in PPE and how to use it specifically, there is every opportunity for us to take that up here in Tasmania and to do that quite effectively.

The use of undergraduates from the University of Tasmania to assist the Government in its task both on the front line and support on the phones is a wonderful opportunity. They would not be responding directly to critical patients but they could support those doctors and nurses to undertake those tasks.

Mr Gutwein - I have taken that suggestion on. It is being followed through.

Ms WHITE - I raise that because we know in Hubei province they brought in 42 000 additional health workers to deal with the crisis at that time. We will not have that luxury because when we call on staff they are from New Zealand or interstate and they are all tied up responding to their own pandemic crisis. We need to look at how we can resource our health workforce here with the other capable people in our community who could provide support.

I agree with you, Premier, it would be nice to think it does not come to that but we have to plan for the worst and hope for the best. By planning for the worst that gives us the best chance of saving the most lives.

Quarantining on the border and recognising the additional announcements that were made this morning by the Premier, it would be remiss of me not to mention that it is still inadequate at our Australian borders compared to what other jurisdictions are applying. We need to take extra measures locally to protect Tasmanians from the risk of the virus spreading here. It is not just about enforcement by police authorities. It is about having very strict border measures in place so that potentially we are taking temperatures, making sure everybody has got appropriate PPE, transporting them to their fixed address where they are going to go into quarantine so that there can be no room for mistakes.

Mr Gutwein - You should explain that video you shared with me, the difference between New Zealand, that was extraordinary.

Ms WHITE - The Premier is referring to a video I shared with him very early this morning about the regulation China has in place when you travel there compared to New Zealand. I am pretty confident they are the same in Australia judging by the conversations I have had with people who have returned to Australia lately. It demonstrates why their case numbers are now declining

because they have taken such a strict approach to how they deal with people arriving in their country. That is what we have to do here to get on top of it.

I note the Premier said in his media statement this morning that you can assume that there is community transmission now given the case numbers, or likely to be.

Mr Gutwein - I said that I fully expect that there will be at some stage. There is not as yet that we are aware of.

Ms WHITE - This comes back to testing. The argument from the doctors is that we should be testing everybody who presents with symptoms, not just those who fit the narrow guidelines. We think that is very important for us to be able to track and trace contacts so that we can actually deal with the spread of the virus in our community.

I want to emphasise now why that is so important. Think about the exponential growth in this virus across the world; Tasmania is no different. You are the Treasurer, I know you know maths. You understand exponential growth but that is Tasmania's current cases plotted on a graph which shows the exponential growth. I have forecast out for my own interest as well as to help my arguments in this place. This is what Tasmania is looking at if it continues on that trajectory over the next three weeks. Just to explain it, exponential growth is every three days the case numbers double. That has been proven true already in Tasmania's case, in terms of the number of detections we have had here of confirmed cases of the virus.

On 24 March, yesterday, we had 36 cases. Therefore, in three days' time we will have 72, by the end of the week we will have 144, that is in a week's time from yesterday. In two weeks' time, we will have 1152 cases; in three weeks' time we will have 4608 cases.

Ms O'Connor - Those that are reported.

Ms WHITE - This is the point. We are tracking on the same exponential curve as every other jurisdiction in the world. Because of the narrow criteria for testing and the fact that there are people in our community who Public Health has not, as yet, been able to locate and who have been on cruise ships or have been in contact with people, it does mean that the threat or risk of community transmission is high.

Given the number of people who have come through our offices, not physically but have phoned, indicating they know of people who have presented to hospital with clear symptoms that align with COVID-19 but have been unable to be tested because they do not meet the strict criteria, I bet there are cases right now in the community that are not detected, unfortunately. This is why it is imperative that we take action now. I hope I am wrong, sincerely I do, but we have to plan for the worst and hope for the best. Given the trajectory that this data is showing us and that the fact that exponential growth demonstrates that in only two weeks we will have 1152 cases, unless we make more serious and severe interventions now, we will be in a lot of trouble.

Already people are feeling the pain. The last thing we need, is for people to lose people they love. Again, we provide our full support, Premier, for everything you need to do right now to keep our community safe. It is a big task but the problem with the virus is that it may not demonstrate symptoms in people for two weeks, so there could be people walking around, perfectly healthy today but they may be contagious, they may be carriers of the virus. In two weeks' time, they will show those symptoms.

That is why, whatever measure we take today, will not really demonstrate its outcome until after two weeks' time, which is what places like Italy are finding. Even though they have now been in very harsh lock-downs for nearly three weeks, only in the last few days have they seen a slow decline in the number of confirmed cases of the virus. This is because for two weeks you do not know whether you are ill or not, or whether you are a carrier of the virus and are contagious or not. You are contagious before you become unwell. This is why testing of people is important and why some are even arguing for testing of people who are asymptomatic because they may be contagious and carriers of the virus but may not display any symptoms of it.

Ms O'Connor - Well 20 per cent of all diagnosed cases in Italy are asymptomatic.

Ms WHITE - Yes, and this comes back to a question about the testing kits. It is not a matter of Public Health saying that you should not test. It is a matter of resources, because we do not have enough tests. That is the reason we are not doing wider testing: the country and the world simply do not have adequate tests to do that.

Given that we do not have the ability to make that intervention, we have to undertake other interventions, which is why we are calling for schools to be closed and why we are calling for non-essential services to be closed as well. We have only so many tools at our disposal here so we have to use the ones that we do have.

I will go onto the bill, Premier. I know the enormity of this is not lost on you and I reiterate why we are anxious for you to take action quickly, to do everything that is possible and to send clear messages to the community of Tasmania. It was very dispiriting to watch the Prime Minister's address last night. There were many mixed messages and a lot of people would be more confused after that, than they would feel confident that they were getting strong leadership from the Prime Minister of our country.

In absence of that, Premier, our hope rests in you. We are hoping you can make the strong interventions and provide the clear messages our community needs right now because they are confused. There are mixed messages about whether they can go to the hairdresser or go to the beauty salon or go to school. Apparently you can go to a hairdresser but you cannot go to a beauty salon. You can go to a school but you should not go to a restaurant. It is confusing for people. It would be much simpler if there was one clear message that is, if you can stay home then stay home; if you can work from home, work from home; if you are over 60, if you are vulnerable or have an underlying health condition, stay home; all schools are closed except for those services that are provided for essential service worker staff and vulnerable children and all non-essential services are closed. Give us two weeks to catch up on testing to see where we are at.

I understand the prevalence of the spread of this virus in the community. I support our health workforce to prepare and get things ready because even without taking any additional action today we can expect in two weeks' time to have over 1000 cases in Tasmania.

As was declared yesterday by yourself, Premier, there are 50 ventilators in the state. The Health minister said there was an order in for an additional 100 but we do not know when they will arrive. We have 43 ICU beds in Tasmania. We have a hospital system that is already at capacity. We have an older and sicker population compared to the national average. We are an island though, which means we can do things that other states would be envious of. No government has ever regretted taking action early but they sure have regretted failing to act when they had the chance. Let us learn

from the mistakes of those other countries and jurisdictions and do everything possible we can here to save lives.

I will move to the bill. The questions we have are in relation to some of the powers and I will try to be as specific as possible. Some of the clause notes did not align with the clauses in the bill but I think it is because of the rush everyone was in so we have figured that out.

Clause 7 is the scrutiny of notices. My question to you, Premier, is what happens if parliament is not sitting? They need to be tabled in the parliament and approved by the Subordinate Legislation Committee. What happens if parliament is not sitting, for whatever reason we cannot, and those notices cannot be tabled in the parliament and therefore they cannot be disallowed by the parliament if the parliament does not agree with them? If the protection is the Subordinate Legislation Committee, what happens if they cannot sit? They have 14 days to disallow. What happens if within those 14 days of that notice being tabled to be given effect, some kind of draconian act is undertaken by the Government that cannot be undone until two weeks later? It is a matter of having appropriate accountability and scrutiny in place to protect against any unintended consequences.

Clause 11 in the bill goes to the amendment and revocation of notices. There is a question around accountability and scrutiny here. What is the check and balance? On my reading of it, if a minister made a notice to amend a notice, what power does the parliament have in that case? The minister could amend a notice to do any number of things. My question is, what power does the parliament have? Where is the accountability and the scrutiny for those decisions to prevent a notice being made by the minister that could bring in a draconian law or regulation or some other terrible thing that nobody can do anything about?

Ms O'Connor - There is no clarity about the report back on amending a notice at all.

Ms WHITE - Which brings me to another concern we have. I might have the clause wrong, it is a bit messy but you will understand what I mean when I talk about it. I think it is clause 12 but it may not be. It is to do with the cessation date for the declaration of an emergency.

What happens if it never ends? What happens if a government minister decides to never issue a cessation date and instead, could a provision be included in this bill to set a date in six months' time for all the things within this bill to cease, or whatever it is necessary to cease, unless it needs to be extended and then it can come to the parliament for approval for extension?

It needs to have an end date, so that the power to make a decision about continuing these emergency powers indefinitely does not rest with the minister. The power should rest with the parliament. If there is an end date for these powers that we can review in the parliament and decide whether those powers need to continue for another three or six months, we would be quite comfortable with that. We are not comfortable with having no end date for these powers because it renders the parliament powerless, useless.

There is also clause 19, Public exhibition of certain documents. I have a question about the intent of this and whether there is room for abuse. Does this clause relate specifically to matters pertaining to responding to the crisis, or is it broader than that? It could be broader than that, and it could have to do with planning permits for local council and others. Could this be a way for the Government to undertake consultation on things that have a lot of public interest, like major projects legislation, for instance? What does this cover?

If it is specific to the powers required to deal with the crisis, we are comfortable with that, but if it is expanded beyond that to allow the Government to say that they have done consultation on major projects legislation - because they did it all online, people could submit online, we have ticked that box, thank you very much - we would not be comfortable with that. Perhaps it is also that we have given an approval for this you beaut, brand new thing to be built and we have gone through this process and consistent with clause 19, sorry that you feel that way. Is there room for abuse of that power? Can we have a way to curtail that, so that it is not abused? I am sure that is not the intent and I know it was not in drafting but I want to make sure that is the case.

Emergency cessation day is clause 26, not clause 12, but you will understand what I mean. Clause 3 in Schedule 2 is about the current penalty for an offence with respect to emergency management workers, under section 60 of the Emergency Management Act, from three months to six months. Given the limited time we had to read the bill and get ready for this debate, I have not double checked what that act is. Is the offence in line with the state of emergency being declared, and that if people breach their quarantine it is a six-month jail penalty?

Mr Gutwein - It brings it into line with the offence provisions under the Public Health Act. It is three months in the Emergency Management Act. It brings it in line, so it is equal with that. Not every offence is six months or \$16 800 -

Ms WHITE - Do we not have minimum mandatories in this bill?

Mr Gutwein - It crossed my mind to put them in a little higher than that and that is not a bad thought, to be frank.

Ms WHITE - I was not giving you suggestions. The first time you get to use this power, you can demonstrate how significant it is.

Mr Gutwein - It needs to be. A notice will not be issued unless somebody's life is put at risk.

Ms WHITE - Thank you for clarifying what that Emergency Management Act is.

Clause 22(2) relates to the Residential Tenancy Act. The only concern I would have is if somebody is not able to pay rent during this period - and they cannot be evicted because of the provisions in this bill - what happens upon the lifting of this emergency period, if the landlord tries to make them pay for that preceding six-month period? What protection is there against them charging a tenant for the six months of unpaid rent? Could you let me know about that? I presume commercial tenants are the same. Can you confirm that as well?

It has been a long morning. I thank your officers for their work and I look forward to your answers because, like you, we want to see this happen and get it done.

[12.56 p.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Madam Speaker, this is, without question, the most consequential and sweeping legislation of powers parliament has debated. It is huge legislation that will have significant impact on the lives of many Tasmanians. Its intent is to save lives, to keep people safe and well, to make sure there are powers to ease financial hardships on individual Tasmanians and businesses and to ensure that the ship of state, the regulatory and statutory framework, can go on.

We received a briefing on this legislation before we had seen it yesterday, and I thank the Office of Parliamentary Counsel for what I hear was a frank and entertaining briefing, and have done our best to understand this legislation. It does hand to Government, on trust, enormous powers. It gives to the Premier, the Treasurer and the Attorney-General, sweeping powers, in some ways, and there are constraints in here that relate to the issuing of notices only specific to deal with the COVID-19 response. Nonetheless, I share concerns that have been raised about a potential lack of scrutiny in relation to the way those powers are exercised. We have a number of questions we want to ask the Premier.

I will share with the House, before I go into the detail of the bill, an email I received before lunchtime from a doctor at the Royal, who, I must qualify, is not my son, who is working in the emergency department at the Royal Hobart Hospital and for whom, as a mother, I worry. This doctor says -

Dear Ms O'Connor,

I am a resident working at the Royal Hobart Hospital. Over the last week we have seen a truly alarming uptick in the rate of COVID-19 diagnoses in Tasmania.

At the time of writing, our state sits at 36 confirmed cases. Earlier news reports of cases tout 'no community spread', but unless we enact a hard lockdown in our state it's sadly inevitable. There are strong suspicions that we already have community spread but our testing criteria is not wide enough to capture it for the time being.

Unfortunately, not enough is currently being done at a federal level to mitigate the spread of COVID. This is the time for states and territories to act independently and save thousands of lives. This is no exaggeration. Current modelling of COVID spread and mortality paints a very bleak picture, and inaction at a federal level is costing us dearly.

Congratulations ...

I am sure this doctor meant to the entire parliament -

... on acting decisively early in the piece and enacting restrictions on our borders. This is an excellent move and no doubt bought our state more time. However, this will be for naught if we do not capitalise on this action and enforce lockdown in our state.

You and I both know the Royal Hobart Hospital is not equipped for the wave of COVID-19 patients that we'll see if we continue our current trajectory. We already operate at capacity more often than not, without a pandemic! Our ICU and ventilator capacity will soon will be overwhelmed, with unprecedented loss of life.

I urge you to consider a hard lockdown on our state, every hour counts! A shutdown for the next few weeks will pay dividends in the months to come.

Ultimately, history will judge our leaders harshly in this tumultuous time. Please make the right choice, lives are at stake like never before.

I look forward to your response. If you do not deem a shutdown necessary, I would appreciate justification.

I gather that this resident medical officer at the Royal Hobart Hospital, whose name I will keep confidential, has written in similar terms to other members.

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

**COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS)
BILL 2020 (No. 14)**

Second Reading

Resumed from above.

[2.00 p.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Madam Speaker, before the break I was reading into *Hansard* a point from a doctor at the Royal Hobart Hospital, who I made it clear is not related to me in any way, who is asking for strong lock-down measures to be put in place. That is certainly being considered as part of an effective response to preventing transmission of the virus.

I will now go through some of the specific questions in the legislation, with the qualifier - and this is particularly for the talented people who drafted this bill - that it is really difficult in the space of two hours to wrap your head around in a way that we would all be satisfied with the provisions in this legislation. So, I may not see relationships between different clauses that explain some of the concerns that we wanted to raise.

Under Part 2, circumstances in which notices maybe issued. From the briefing yesterday, we had formed a view on the information we had that the emergency manager needed to be satisfied that a notice was necessary. Now, as I read this, if you connect clauses 5 and 6 - clause 6 is Emergency manager to approve making of notices and it details that:

A notice under this Act, other than -

- (a) a notice under section 20 that relates to the court other than a court of petty sessions or the Magistrates Court; or
- (b) a notice under section 22 or section 23; or
- (c) a notice under 27 -

may only be issued with the approval of the emergency manager.

This slightly turns around the onus of responsibility, in a way. What we now have is ministers determining that a notice is necessary and the emergency manager approving that notice. The way I read this is that it is not the emergency manager telling a minister that a notice is necessary. It is the minister simply seeking approval from the emergency manager for the notice. Premier, could

you explain why that change has been made? That would be helpful because it is these sorts of provisions that can make responsible legislators uneasy about potential abuses of power.

Scrutiny of notices, clause 7. These are the provisions which seek to provide a measure of transparency and accountability about the issuing of notices by the Premier, Treasurer or Attorney-General that relate to tenancies, fees and charges and the cessation of the public health emergency declaration. This is the provision that requires the minister to table a copy of the notice before each House of parliament and makes it clear that it is to go to the Subordinate Legislation Committee.

Could we have a really clear explanation of how that would work in practice when parliament is not sitting? That would be extremely helpful and useful.

Clause 8, When notice takes effect and duration of notice: does this mean the notice takes effect on the day it is published in the *Gazette* or, if it is later, if it is in the notices later that day, is subclause 8(3) -

A notice under this Act is taken to be revoked 60 days after the emergency cessation day.

The emergency cessation day raises some questions. In clause 27, the emergency cessation day seems to be somewhat open-ended, potentially. In clause 27 -

- (1) The Director of Public Health must notify the Minister as soon as reasonably practicable after he or she is of the opinion that the relevant emergency circumstances referred to in section 5(2) no longer exist to such an extent that a notice under Part 4 (other than a notice amending or revoking such a notice) may be required to be issued under this Act so as to assist in the reduction of the risk of infection by the disease.
- (2) The Minister, by notice, within 90 days after a notice is issued to the Minister under subsection (1), must declare a day specified in the notice to be the emergency cessation day.

Say the Director of Public Health notifies the minister on 30 September this year - I appreciate that is unlikely. Under this provision, the minister has 90 days so the minister could wait until 1 January to issue a notice declaring a specific day to be the emergency cessation day. I may be missing something but, to me, it reads that the minister could declare, for example, if the minister was staggering drunk on power, that the emergency cessation day could be 10 years hence. It is open-ended and concerning. There needs to be some hard dates or temporal provisions in there that make sure the minister cannot just take over the government and shut down democracy in Tasmania. Can the Premier deal with that specifically? We are quite concerned about that.

In clause 11 -

A Minister, by notice, may amend or revoke a notice (other than a notice revoking another notice) that the Minister may issue under this Act.

There is nothing in clause 11 that makes it clear that any amendment or revocation of a notice is published in the *Gazette*, tabled in parliament, or sent to the Subordinate Legislation Committee.

Again, the qualifier here is, I have not had enough time - no-one in this building or on this side of the House has - to really pull all the threads of the clauses together to see how they connect. Can the Premier deal with clause 11 and whether any amendment or revocation of a notice is subject to the same transparency provisions as the issuing of a notice itself?

I know Ms White dealt with this in some detail, but clause 14 relates to the amendment of planning and other permits. Potentially, it give the minister some very significant powers. The minister may take a specific action. This is the statutory timeline.

In clause 14, the minister is empowered to make a notice, amend or evoke a permit or class of permits, including planning permits, and other permits, as prescribed by regulation. I am sure the Premier would agree this does give the minister very significant powers, and to remember that this act also allows for the delegation of the issuing of notices, and some powers under this act.

Could we have some clear reassurance from the Premier that changes to planning provisions or permits would be very narrowly and specifically applied only to the COVID-19 emergency response?

Mr Gutwein - I will be very happy to give you that assurance.

Ms O'CONNOR - Thank you. In Part 3, clause 17 - Authorisation to take actions electronically - it provides the minister with the power to make a notice to allow actions ordinarily required to be undertaken physically, or evidence via a non-electronic means, to be undertaken electronically. This is a necessary amendment in order for public services, and public administration, and our important democratic institutions to continue to function in this time of crisis. I am interested in the Premier's thoughts on how we could - and I know parliament operates within its own time and dimensions - but there must be a capacity at some level for us to continue to conduct a parliament in form -

Mr Gutwein - My understanding is, under a ministerial direction utilising that clause, we could hold a parliament under those circumstances, if we needed too. I am hoping we do not.

Ms O'CONNOR - I am also hoping we do not. I am hoping we do not do what the federal parliament did, which is to adjourn until 11 August. That is not good public administration. We have had conversations about the importance of keeping our democratic institutions going, with all those safeguards in place.

Having a very extended parliamentary break would certainly concern us. I believe it would worry the community more broadly, if they thought we were not on the job, if they thought - which many do now, as a result of the decision of the federal government in parliament - that parliament was going to cease until August. Members of parliament, senators, would just go off to their home towns, sit on the couch and watch Netflix on the public purse. I understand why everyday people would be resentful of that, given how many people have lost their jobs and their businesses. A measure of hope for the future this year at least.

The financial hardship provisions in Part 5 - these relate to commercial tenancies, to restricting rent increases or the termination of commercial tenancies. I wandered over to the ghost town that is Salamanca to buy something for lunch today. I was chatting to one of the local business owners there who was remarkably relaxed. 'Sanguine' is a good word for it. He talked about the rents. He has two businesses, one is at Salamanca and one is at Moonah. Over the next six months his rental

bill alone is \$270 000. This is a business operator who has spent 35 years building up his business. It is a very successful and terrific business. That is only one story of a commercial business operator facing that kind of unpayable rents.

We support this part and it is really clear:

- (2) The Minister may, by notice, declare that, despite any provision of a lease, other than a lease to which the *Residential Tenancy Act 1997* applies, a lease that is within a class of leases specified in the notice must not, within the emergency period, be terminated, and the rent payable under the lease may not be increased, in the circumstances set out in the notice.

They are excellent provisions in order to try to put as many businesses as possible into hibernation and shepherd them through the dark times. I do not see those same protections for residential tenancies. I know there are some but these measures provide substantially more tangible support to business owners than they do to residential tenants.

We are dealing with a situation where tens of thousands of Tasmanians have lost their jobs. There are people now already rigid with fear about how they are going to pay their rent in the private rental market and yet as far as I can see, there is no firm mechanism in this legislation to ensure you are putting a freeze on rent increases for residential tenants in the same way that you are for business operators.

This provision is really clear: the rent may not be increased for commercial tenancies. Yet the rent could be increased for residential tenancies. There is no specific provision in here for there to be a freeze on rent increases for people in the private rental market and they will be needed.

I have already asked the question about the emergency cessation day and we do not want to go into Committee for a range of reasons. We are hoping the minister will answer the question, the concern that we have about open-endedness about an emergency cessation day.

On the Consequential Amendments - Schedule 2 - it is a very big step during this emergency period, to remove protections under the Personal Information Protection Act 2004. We accept that in order to save lives and in order for different jurisdictions to be able to communicate with each other about people who are potentially carrying the disease and not complying with orders, there will need to be some flexibility around the protection of personal information. However, this power must be used very carefully because the parliament enacted a Personal Information Protection Act for good reason and that is to protect, to the greatest extent possible, the privacy of citizens who come into contact with the arms of government.

Could the Premier provide some reassurances about how narrowly the lifting of the application of the Personal Information Protection Act in these circumstances will be applied?

In the Schedule, the consequential amendments that relate to the Residential Tenancy Act are quite limited in a way. It is positive in that it will prevent the eviction of a tenant on the basis that they cannot pay their rent but it does not do anything to ensure rents are not unreasonably increased. These changes also make sure that real estate agents and staff are not exposed to potential risk by having to undertake personal inspections in place. That is a positive.

We are concerned that there is much more bureaucratic effort required for private tenants. You have to go to the Residential Tenancy Commissioner if you want to have a lease terminated or if you think a rent increase has been unreasonable. That is a capacity that the Residential Tenancy Commissioner already has, but there is nothing in there that will stop serious rent increases in a time of emergency when many people will not be able to pay their rent. That is a hard and sorry fact.

There are jurisdictions that have gone much harder on social protections in response to the Coronavirus. The Western Australian Government has just declared that they are going to put a freeze on electricity bills, utility bills and the like. In France, Emmanuel Macron has made assurances that there will be strong protections in place, including rent holidays and the like, in order to keep people housed. In London, for example, a city that a number of us will have been to and where homelessness is right in your face, right there, on every street and every street corner, there are homeless people, but not anymore. It is interesting that, in London, a choice is being made to provide safe accommodation for people who are homeless. It tells us something about the dark side of the capitalist system - until there is a widespread public health risk, until it is possible that rich people might contract the virus, we have been leaving homeless people on the streets of London. It is possible to solve homelessness overnight. These are choices we make as a society.

It is amazing how swiftly governments can respond to issues like chronic homelessness when there is an existential threat on the doorstep. We are going to see huge social pressure. People are going to be at increased risk of homelessness because they cannot pay their rent and we need to have strong measures in place to ensure we are keeping people safe inside their homes. For people who are living on the streets now, and we know they are still on the streets of Hobart, we need to have a strong, coordinated, protective response for those people.

We also need to understand that the prison system is a place of high-risk transmission. There are prisoners, inmates, in our correctional facilities who have multiple chronic health conditions, and there are inmates in the system who are low-risk. We have written to the Attorney-General, asking her to follow the lead of other jurisdictions, including New South Wales, to release low-risk prisoners back to their homes in the community, and to put more protections in place for inmates who remain and for correctional staff. These are unprecedented times and we cannot be treating people in a classist way. People are people, and there are family members of detainees in our corrections system in Tasmania who are highly stressed about the risk to the people they love. Let us remember, some of those inmates will be in there for quite minor offences and are not a community risk. We strongly encourage the Government to listen to what Dr Woodruff is saying on our behalf but also to advocates for prisoners, including lawyer, Greg Barns.

We recognise that this bill is going to be the last opportunity for parliament to get it right in a legislative sense, and which hands very significant powers to ministers. We are doing this on trust, and we are doing this because we have committed to working together and we are doing it out of love of this island and its people. This is very significant legislation. It is potentially open to abuse. I am trusting you, Premier, not to abuse the powers this parliament will be vesting in you this day. I am sure the upper House will also pass the legislation and we hope that they do, but this is a huge trust ask and I ask you to respect that.

[2.56 p.m.]

Ms OGILVIE (Clark) - Madam Speaker, we are here today to consider the COVID-19 Disease Emergency (Miscellaneous Provisions) Bill 2020 brought in by the Premier, Peter Gutwein. It is a

bill for the exercise of judicial, administrative and legislative functions and powers in relation to the state to mitigate circumstances, the financial and social effects related to the risks of COVID-19.

It is important to take a moment to recognise the enormity of the request that is being made of this parliament today. I am put in mind and I love this quote, even though it is an English quote, but we are all in it together at the moment. Winston Churchill said, 'We will defend our island, whatever the cost ...'. The cost today is not so much economic cost. We are not being asked to sign off on funding. We did that yesterday. The cost today is a question of how far we are prepared to go to put aside our standard processes and practices in the Westminster system and our protection of a separation of the powers, which is something we hold dear to our hearts in a representative democracy, to compress some decision-making amongst the legislature, executive and the judiciary, and to trust the Premier, the Treasurer and Attorney-General to guide the ministerial decision-making process through this next phase.

We are being asked to invest a large amount of power in a brand-new process with limited parliamentary supervision. I reiterate, we do not know where things will go to from here, but I am a strong believer in our capacity to rethink, redo and reimagine how we run institutions, including this parliament, as we need to.

I like to get out and about, following the social distance rules, but I listen to what people are saying as they pick up their morning coffees. One of the fellows said to me this morning, you know what, we are Tasmanians, we will work it out as we go, we will muddle through. That is absolutely correct. We are a very small population but we have seen hard times before, no doubt we will see them again, and we will work through this.

I have the same amount of time as everybody else in this Chamber to read and review the bill. I spent some time during the lunch break doing that, but it was also worthwhile to think about the Constitution, the power we have to grant these powers, and do a little bit of confirming and checking on that, which I have done. We are in an unusual situation federally and in the states and we are seeing some pressures and tension on our federation and the way we are making decisions nationally, but then trying to apply those with individual state contexts.

So far, the mood seems to be that we are doing a good job. I hope everybody else gets the feedback that I have been getting, as you go around your daily lives and you interact with people. They are saying, thank you, keep going, you are doing a good job, and they are proud of us. I have never heard that before. Usually we dislike politicians but I am hearing that and it is a good thing for everybody in this Chamber, to keep that basis of trust. The trust levels are pretty high at the moment, which is why we want to support this bill. We see the need for it as a community and I want to play my part in that.

We are heading into uncharted territory in some senses but we do have strong protocols and processes. Our leadership cohort in this place, and across the other limbs of powers, the judiciary, in particular, is wholly independent and I see remains independent in this bill. I will have some questions on that for the Premier. I see that some effort has been made to ensure that cases are not directed in any sense that we are talking about processes and protocols.

We inherited our Westminster system from the United Kingdom, and I am thinking about the dreadful and awful times they are having over there at the moment. All of us who are part of the global community of parliaments that have a similar system - the 'Wash-minster system', as they call it in the United States - the Westminster system that we use here, adapted to our particular

circumstances, are all grappling with this question. Parliament was always about the talking parliament; '*parole*'; the root of that verb is the discussion. The question is, can we do that if we are going to have to work in other modes, in other ways, whether it is online, can we meet remotely, or do we find other ways of doing things? More use of the committee system; we can do that. We see that work is going on elsewhere.

I have spoken at length in this place about the Subordinate Legislation Committee. I was a very proud member of that for many years and I liked it because you would get into the detail of the law and the regulations. I do recall, not too long ago in this place, we have also loaded them up with a bit more work. I wonder whether some additional resources might be a smart move because they are on the critical path of putting ministerial decisions through the system.

I also think we are, in part, redefining what the word 'public' means. When we think about public meetings now, what does that mean and how do we do those? We talk about phrases, and I was talking today about how we really need to do a 'town hall' on a particular issue. What does that mean? It probably means an online discussion, gathering and grouping now. We cannot do the physical public thing any more. That would be a huge change to our community and to people who liked to be engaged and get out. This definition, this rethinking of the word 'public' and how we address that is going to require leadership and innovation. It is going to require funds put into technology and it is going to require us to work very closely with communications providers.

I have a chance to speak briefly today as to what we do with online learning. There is a global discussion happening, and it is about time this happened, about the digital divide, how that impacts our children and how we have the haves and the have nots; those who can afford technology and the ability to be at home because they are able to do that, and those for whom it is much more difficult. We do not want to see classes of groups emerging. The technology side of this is really important and I see some of that is built into the bill. I see that online meetings are able to be held, online signing of documents, all sorts of things that we probably should have addressed some time ago but are now able to be done because we literally have the burning platform to make that happen.

I had a chance to have a quick look at the constitutionality of passing of broad bills such as this which invest a great deal of power in a quasi wartime situation. Obviously, we are not at war but it is a pandemic and an unprecedented scenario. The closest analogy I could find was in relation to war time powers and the High Court has looked at this quite a lot. There are a couple of important cases. The one I would like to mention specifically is *Farey v Burvett* in which the High Court did take an expansive view of the powers of the Constitution to be viewed in their broadest sense.

On section 51 of the Constitution, which has powers in it for the passing and management of laws around health at federal level when all is said and done when this pandemic is over, we will see this is probably used very broadly. Sitting under that we have our Tasmania powers and the decisions around public health which have been of such prime concern during this crisis. What we are doing here is backing in some of the decisions we have had to make through those emergency powers act. There are some very practical measures in the bill before us to make sure that any gaps in relation to law and regulation that enable us to implement emergency powers are covered, such as increased powers and a few other things.

Also, quick decisions can be made at the Premier and Treasurer level in relation to addressing the very real and desperate plight of constituents who can be in serious difficulty. I have a few of those to speak of in a minute. I had a phone call over lunch. I have been talking to people in business and we are turning our minds to the retailers. My girls in my shops are desperate with no

customers for a week - not restaurants -not closed, retailers open. I am talking to them about making sure they have legal and accounting advice and to look at their leases. One lease cost in particular is \$1000 per week; she was making that not two weeks ago now there is nothing. She is stuck with a five-year lease. We want her to go into hibernation to re-emerge later. What do we do about that? Reading her lease, I asked her to look to see if there was an act of god clause, which there is. We will probably find those in many leases. There is a couple of large retail or groups that run retail outlets and probably have the same leases across a range of tenants.

The act of god clause is intended to allow if there is something that happens which is beyond everybody's control, such as a cyclone or a pandemic or whatever it might be, allows people to step back from their leases. This is where we might be able to do something. I have not read it, but she is saying to me the way I read my lease I would be better off if the government closed us because that provides the trigger for the renegotiation. I suspect what we might need to do is talk to the landlords who have a lot of money on the table and will want those businesses to continue because you cannot lose all your tenants at once. Somehow, somewhere we are going to have to have discussion that is a different type of discussion to the restaurants. Retailers are a different business.

In the meantime, I have been holding up my end of the bargain by buying as much as I can from everyone without driving my husband too crazy. I have called previously and again today for a rate freeze. I would like to see Hobart City Council, in particular, step up and freeze all those rates notices today for families and businesses. I think we can have some faith in the Government. The council has a fair amount of contingency in their kitty. We can have faith in the Government that whatever needs to happen will happen and I will be looking to the Premier to back this in. However, council, now is your chance to step up and look after the good ratepayers of Hobart in particular, because we have been paying our rates for a long time. We have received services and that is good, but the crisis is now, and you have the capacity to do more. I would really like to see that happen.

Whether the minister, under this act, may decide that he wants to engage in that conversation and put a ministerial directive into place, is something for the minister. However, having now just called for that to happen, I may now write to the Premier, and ask him. We have had those conversations. I know I am traversing ground that others are also thinking about, have talked about and are still talking about.

Commercial rents and the intervention in the commercial rents market is something the Government ought to think about engaging in.

I do not believe there are amendments proposed to the Local Government Act in this bill, but I suspect we might need to have a think and a look at some of those elements as they come along.

I see the need for flexibility. I see the need for firm management of the crisis, and quick decision-making. Certainly, none of us would want to be a barrier or on the critical path in slowing things down.

I agree with the other speakers that it would be nice to see a sunset clause in the bill. Although we do not know how long this may go on, my reading of it is that ministerial directives will last for 12 months, from the date of the directive. If I have that wrong, I would like that to be clarified. That is just my reading of it. I do not see a sunset clause in the bill more generally. This goes to the question of how long we wish to keep these powers in place and how long should we keep these powers in place.

There is a clause in the bill that allows the delegation of powers. I do not want to make a huge thing of this point, but, it seems to me that it would be better if those powers were not able to be delegated. There are already three ministers who can share the decision-making: Premier and Treasurer combined, and the Attorney-General. That is three senior roles, three senior ministers. I am not sure why you would want to delegate, or to whom, but if there might be a practical and sensible reason for that it has not occurred to me.

We have new arrest powers in section 60B of the Emergency Management Act. I have seen and I have heard from people, particularly people working in supermarkets at the checkouts, that they are concerned, and have been concerned, that people might not be self-isolating. They have been worried about what to do about that. I have been in contact with my union to ask them to get some communication out to people, usually younger people who are working in those places, who work in retail and those businesses to ensure that they know what to do, to fill that gap for them if they think there is a problem.

We have talked about, and I have talked loudly about a rate freeze, which I believe is a sensible idea. Previously I have spoken about freezing government fees, bills, charges, land tax. 'Hibernation' is the word. Can we take that pressure off people at least for the short term? Nobody is saying, we are never going to pay. No-one is saying, we do not want to pay. We are saying, think about a freeze, think about a holding pattern, think about hibernation. If we can think about doing that, water, electricity, those sorts of things, the population of Tasmania will be very pleased.

There are charges and cost of living costs, cost of doing business costs, that government cannot control. I thank everybody who has worked on this bill, whilst also recognising that there are things in the broader market that are unable to be controlled with ministerial directives, specifically a much larger proportion of the family budget now, more than ever, goes on communications charges and we are going to be at home more.

Those of us with three kids are very hungry for data and very hungry for games and online games and watching things. We are all stuck at home. That stuff is going to increase. I have taken the liberty of speaking with Michael Patterson at Telstra. I know the good work they are doing in relation to schools and I thank them for that, as well as the other telecommunications providers. I know they are working around the clock to keep things going.

Let us not have that digital divide problem. For those fortunate people like my family, we can afford to provide some of that. In other families, particularly in rental accommodation, some people do not even have proper connections. I would like to see free data pumped into as many social housing houses as we can. Let us get that up and running. Let us get those kids pumping. Let us get them iPads or laptops, whatever we need to do, to get that going. I know it is going to be expensive. I am going to write you so many letters asking for lots of things. If we can do that then with online learning at home, these kids have a chance of keeping it up.

If we get to the stage, and we are not quite there yet, after the Easter break and after some time off we are saying that we need more time to eradicate this challenge and we would prefer kids to stay home, then we are going to have to look at how we are going to have to do things over summer and also heading into a new year. We may have two cohorts of kids trying to do similar year groups. I see a lot of challenges around that stuff.

I have talked a little about the private sector. They have taken big hits and this bill tries to support them, taking some of the immediate pressure from those people, those families, right across

Tasmania, in relation to the cost of continuing on. The last thing we need is for rent payments that can no longer be met because businesses are shuttered to send people into, to use the Premier's phrase, 'the abyss', the financial abyss. We do not want that.

I turn briefly to the question of courts and tribunals. As you know, it is my professional background. I have many professional friends who are still trying to work. My great uncle's law firm, Ogilvie Jennings, has gone fully online - good on them - and they are continuing on. Barristers are struggling a little more, particularly defence, criminal law barristers, particularly with courts closing and tribunals not working at full capacity. I do know, however, and I congratulate the DPP, that they are finding ways to Skype or Zoom into meetings and conferences. That is a good thing.

Maybe we get to a stage where we say, look as a community, as a state, as a nation, we now find ourselves in a position where we can make those big step changes and great leaps forward around how we work. It has been on the table for a long time but we are not there yet. Maybe now is the time.

Work from home; the Premier has said it. It needs to be repeated. If you can, work from home. The Prime Minister has said it: if you can, work from home. If we can avoid it, I do not want to hear any more stories of people saying, 'I can work from home but HR will not let me', or 'there is not a laptop', or 'I do not know how to do it'. We are all going to have to take a breather and accept and provide each other with more trust that when you send someone to work from home they are going to do their best to continue to be a valued employee and contribute. We are going to need more technology, more laptops or computers; more of all of that stuff.

The new world that is emerging will have dual streams. We will be managing the pandemic and that becomes part of how we do things; plus we are working out how to continue on, to manage each day-to-day business.

In particular, I mentioned earlier on the Singapore example when this thing first kicked off, and it seems one of our own UTAS graduates has been deep in the centre of running it, so Island to Island, fantastic stuff, but we see that the way they have approached things is they are a bit ahead of us. Dealing with the pandemic and the health and emergency issues in a very Singaporean way, probably no chewing gum involved either, but they are testing their border measures, all of that stuff they did early, which we have now done, has allowed them to get on top of the challenge. Their schools are continuing and their public transport continues.

I am hopeful that as we deal with this issue, we are able to not only keep our broader economy going but our institutions going, parliament being a prime and important one of those.

The effect and duration of the notices in clause 8 is the question: is a sunset clause appropriate? I accept the Premier's comments regarding the planning law and the constriction down to the issues that may be affected by COVID-19.

I wonder whether, in clause 17, some thought has been given to lawyers and JPs in relation to documents, and whether it is only ministerial documents may now be electronic, or all documents. There are some queries I have about that. I hate to be gloomy but we might find people are starting to prepare some thinking about what happens with things if they need to think about the next phase, particularly around health scares and advanced care directives and those sorts of things.

I am concerned about clause 18(4)(a), in relation to how other organisations might meet and quorums. Specifically, I have been involved in many sporting organisations, not for profit incorporated associations, and whether that is intended to be captured by clause 18, or if clause 18 is more focused on trying to address things like council meetings, GBE meetings, quorums and those sorts of things: a question of how far that change goes in jurisdiction.

Public exhibition of certain documents: I was pleased to see clause 19 in here. That word 'public'; what does 'public' mean now in this new world order? There is a stipulation in clause 19(2)(b) that documents be made available for viewing online, which is fantastic. Credit to the Government for getting their website on COVID-19 up so quickly. A huge amount of effort has gone into that and that is great, but this clause in particular will require a huge amount of work. We have a massive amount of data and decisions to be made. It is time. Perhaps the Government could even consider a special unit set up to get the digital house in order quickly, to make sure there is a single point of contact and a front end for whatever information people might feel they need.

Regarding the Supreme Court, the bill turns around the language in clause 20(3)(b) and the justice's request of the Premier rather than other way around. It does seem a different decision path. I am interested to understand that a little more.

Alteration of certain restrictions to shop trading hours - clause 21. Yes, it makes a lot of sense.

Clause 22 - Provisions restricting rent increases or termination of commercial tenancies. There is a question about whether we can freeze things. What actual help and assistance can we give to people like Naomi who has phoned me a few times needing help in her shop?

Clause 23 - Waiver and refund of certain fees is good.

Taxis and drivers, Uber, et cetera; I am hoping that is all captured by clause 24.

This is my last point: Part 7, Miscellaneous. Clause 26, Section 18 of Public Health Act 1997 not to apply. What that means is that there will be no compensation. It is pretty straightforward. Section 18 of the Public Health Act says, to paraphrase, a person may apply for compensation for any loss or damage suffered because of this act. We are now excluding that, I presume, because we are in extraordinary times and we need to take extraordinary measures.

I would like to see some strong consideration given to bringing people into the loop around planning for how parliament may convene in a new form or frame, and how we do that together. I invite everyone to give that some thought as well. Let us hope that does not happen, but we can make it work if it does happen. That is something we ought to be turning our minds to as every worker in Tasmania is turning their mind to the work from home question and how they continue to deliver their work in the best way they can, or to borrow the phrase from my lovely fellow coffee bar this morning, 'How are we going to muddle through, Maddy?'. I said, 'Well, we will because that is what we do because we are Tasmanian'.

[3.26 p.m.]

Mr O'BYRNE (Franklin) - Madam Speaker, I have a couple of quick questions. There is a lot of feedback coming in from a range of stakeholders. I have a couple of specific questions on rents, rental assistance, et cetera. Prior to that, I put on the record our acknowledgement of the work of the department, the Premier and his team in responding to what are obviously extreme moments in time. It requires a whole lot of people to come together to work very hard to respond in a way

which is commensurate with the challenges ahead. I put on the record my deep appreciation and thanks to all of the staff and the team. The weight on our shoulders is immense, but it is more on you, Premier, and I wish you all the best for the decision making you have in front of you over the next few days, weeks and months.

A number of questions are coming in regarding the rental aspect and some of the specifics. I will read a few of the questions and we can work through them one by one. Could the Premier provide advice about whether this covers tenants in social housing and public housing as well? If the scope covers those elements, I am pretty sure it would, and if it does it would be good to hear but if it does not, what guarantee can you provide them -

Mr Gutwein - It does.

Mr O'BYRNE - Fantastic. I know this has probably been answered but I wanted for the sake of the record, that public housing tenants' rent will not increase with the receipt of the supplement. My understanding is, because the supplement is not a part of their normal payment, it is an extra payment, it is excluded. Could you clarify that?

Mr Gutwein - The intention will be that it will not. But if it does, then we will fix it.

Ms O'Connor - It would ordinarily be counted as income.

Mr O'BYRNE - I think it has been classified as either a one-off payment or a one-off allowance. If we could just get that clarified that it would be as a supplement not income.

Ms O'Connor - Then there is the question of when they get the extra supplement, the \$550 per fortnight, whether the rents in public housing will be jacked up.

Mr O'BYRNE - That is the question.

Mr Gutwein - That is there for a specific purpose, not to pay additional rent.

Mr O'BYRNE - I have a series of questions that I will put on the record for you to consider. Regarding general repairs, the feedback that we have received from people in the sector, particularly in public housing, it would be good to see a mechanism for a tenant to have access to some of these repairs perhaps with a longer time frame and with perhaps an opportunity to apply to the Residential Tenancy Commissioner to have a repair mandated. Also, this stakeholder would like to see some compensation for a tenant who has requested repair that has not been undertaken, and maybe a rent reduction if that is possible or if that could be considered.

In terms of the agreement between the tenant and the landlord to agree to changes to their agreement such as a reduction in rent, they would like to see clarification that a rent increase outside the RTI criteria is not included in the permitted variation to the agreement. The power imbalance between the tenant and the landlord is increased in a public health emergency and they would like a rental increase ruled out, even though there is the potential that - you know what the relationship is. That is the point I am making.

Ms O'Connor - Nothing in this bill rules out rent increases.

Mr O'BYRNE - That is right. It provides provision to reach agreement outside but it does not inhibit -

Mr Gutwein - The act already deals with unreasonable rent increases.

Mr O'BYRNE - Unreasonable, okay. Thank you. As to the application to the Residential Tenancy Commissioner in cases of hardships, it is important to ensure that resources are available to RTC to manage any increased workload and to ensure a timely response when such critical issues are at stake. We would request that.

I understand this feedback has been provided directly to you from the Tenants' Union. As the bill currently reads, the proposed amendment to section 42 of the act means that no tenant can be evicted due to rental arrears but tenants will still be able to be evicted because: the lease is ending; that the property is social housing and the income or assets of the household is more than the prescribed amount; that the property is social housing and the premises contains four or more bedrooms and the tenant does not require all of the bedrooms; or the premises are disability-friendly and the tenant does not require them; that the property has been foreclosed; that the property is being sold, pursuant to section 78 of the Land Titles Act; or that the tenant has caused nuisance to the premises. That is substantial.

In these matters, a balance would be applied. We understand some people who are going through financial difficulties may want to sell their house. We would not want to impinge on their ability to pay their bills and to keep their own house, if they have a house as an investment that they rent out. The point the Tenants' Union is making, and it is well put, is that rent increases are not the only reason why someone may be evicted. If there is a lease coming to an end and the landlord is continuing to rent it out during this time, we would say if they cannot agree to an extension or continuation, is it possible to consider the matters raised in part by the Tenants' Union to ensure that people are able to have a roof over their head?

Mr Gutwein - Understood.

Mr O'BYRNE - Thank you. My understanding is that TasWater has written to all councils advising them that their dividends are now under threat. This will be between 2 per cent to 3 per cent of the councils' revenue, along with a significant number of rates defaults and deferrals that will place significant pressure on councils. We raise that with you and ask you to provide some assistance to councils. That is a poor outcome, if that is the case, increasing costs of councils, commensurate and consistent with the request put on the table earlier as to the financial ability of the state government to either underwrite or to support councils in not passing on those costs to third parties, to ratepayers. In support of job security for those council workers, we seek some response from you on that, in support of those councils.

[3.33 p.m.]

Mr GUTWEIN (Bass - Premier) - Madam Speaker, I thank members for their contributions and their understanding of the extraordinary circumstances we are in. I thank the people who have been involved in the bill: Sophie Muller is here in the House, Robyn Webb, who is a force of nature, and Luke and Peter Graham. Thank you for the work you have done. It has been outstanding to get to this point.

I want to run through a set of issues that broadly cover everything that people raised. Robyn, interestingly enough, has pre-empted most of these questions. In many cases I will cover different aspects and if you want to clarify anything by way of interjection, I am happy to look at that.

Regarding that last point that was raised about local government, this is going to be a very difficult time for governments at all three levels. At the moment, local government holds significant cash assets, albeit they are there for longer-term infrastructure projects, normally, as part of their 10-year financial plan. To get out of this, to do the heavy lifting that the federal, the state and local government are going to need to do, we are all going to have to bear some of the load and work our way through it. For obvious reasons, they operate under an act. The Auditor-General has an interest in local government for obvious reasons but I can assure you, as Treasurer and at a state government level, we will support local government, as a child of state government in terms of the legislation that establishes it. We will work with them.

I want to make it very clear to local government that there is a load to carry here and we are all going to have to carry it because the biggest employers in many of these communities are going to be the state and local governments. We are all going to have to shoulder the load and find a way through it, and we will work with them. Nobody can expect to have a balance sheet or an operating statement under these circumstances that looks anything like what it looks at the moment. We have to work to keep our people employed. Those wages are going to be really important in the community, but we are going to have to look at what levers we can pull, because the simple fact of the matter is that we are shutting everything down.

Ms White - Can I ask what consultation you had with local government about this bill?

Mr GUTWEIN - Very little in terms of this. I have had a number of conversations with LGAT over the last couple of weeks. We had a conversation at lunchtime as to how local government think they might be able to support the people they interact with, their rate base, and the types of things they are looking to work through. There is a good relationship there. I have said to a number of mayors as well who have had, early on in the piece, a view that this is a great time for big infrastructure projects to be dropped on the table. I pointed out that, one, we may not have a workforce, and two, what is important, if we do, is that we can get the money out the door. This is not the time for projects that will take six months, 12 months or 18 months' worth of planning. It is a time for screwdrivers and paintbrushes.

Ms White - One of the questions was about the workforce and you have partially addressed that. Local government is a big employer, especially in regional areas. What conversation and guarantee are you working toward to ensure the employment of those staff?

Mr GUTWEIN - Local governments employ their own staff. I cannot give a guarantee that the state Government will continue, or that those people will remain employed. I can guarantee that we want to see them remain employed and we will work with local government to ensure they can exercise their balance sheet and their operating statement in a way that they probably have not imagined up to this point that they ever would have to. We want to see those people remain. They will be very important as we work through this in the initial effort and, importantly, for the recovery. There will be businesses in those regional areas that have systems in place, that have well-established workforces that simply may not exist. Local government will have to, in many cases, look to do what it can to fill the gap as we move forward, especially in that recovery phase.

Mr O'Byrne - Some are better able to do that than others and the message should be sent that this shouldn't be seen as an opportunity to cut costs. I know you have echoed that already.

Mr GUTWEIN - We will work closely with them, and they will become increasingly important. They will be, in my mind, in many cases, the largest economic unit that stands in some of those towns and regions.

Ms O'Connor - We are also the social front line of government, the front face.

Mr GUTWEIN - We will work very closely with them, but all of us are going to have to share the load on this and we are going to have to find a way to do that.

I will run through, at a high level, the questions and answers Robyn has provided which cover most of the issues. I have a voluminous number of notes to deal with as well.

First, it was raised during the debate, the three main categories of notices that can be made under the bill: continuance of public administration which includes altering statutory time frames, adjusting application of planning laws, et cetera, extending state service appointments.

The reduction of public physical contact: this includes the ability to set alternative conditions and processes for meetings and procedures by teleconference, et cetera, and for the public exhibition of certain documents to help minimise contact.

The financial hardship provisions which include the ability for waiver or deferral of certain rates, fees, charges and taxes as well as giving the power to the Treasurer to prevent the alteration of the methodology for calculation of amounts levied under legislative instruments. Basically, where we need to reach in and actually get money out the door, we are able to do it. That is the way we have drafted this.

The issue of wide-reaching powers: with this bill, albeit there are checks and balances, we will not let you down, I will not let you down. We will not overreach, but believe me, if we can drive things with this bill, I intend to drive things, to get things done. We are going to need to.

Regarding the notices that may be made in relation to certain matters are broad by design. The pandemic situation is continuing to evolve rapidly and the Government needs to have the flexibility to respond. It is fair to say, none of us understand what this is going to look like in a week, in a month or in three months.

Working with government agencies, it has not been possible to actually frame this up and look at it and say, this is the mechanism we need because this is how we would respond to that circumstance. None of us knows what that circumstance is going to look like, so the powers have been kept broad.

The bill deliberately allows for notices to be amended or revoked in response to changing circumstances. They provide a flexible instrument that voids the need to come back to parliament where it is necessary to make adjustments quickly to how various legislative processes or the requirement supply, while still being subject to appropriate transparency and accountability.

Ms White - Can I stop you there, because that was one of our concerns. What are those transparency and accountability mechanisms, because they do not come to parliament?

Mr GUTWEIN - They are all gazetted, so they are all transparent.

Ms O'Connor - Okay, thanks for that. It is not super clear in the legislation that amendments or revocations are gazetted as well.

Mr GUTWEIN - So they are transparent. The other checks and balances are built into the architecture of the bill in order to make a notice other than section 23 notice to waive fees and charges, which is the power of the Treasurer to deal with rates and taxes and charges. To be frank, it is pretty much a similar power to what I have at the moment, apart from the fact that it actually does broadly extend to rates as well. Working with local government, if we need to do something in that particular area, we can.

When a notice is issued, the minister must be of the opinion that the notice is required to manage risks associated with the transmission of the disease itself or to manage the impacts of restricted movement or because there may not be enough people to carry out the relevant function as a consequence of the pandemic and/or the emergency response, or to ensure the supply of goods or services within the pandemic situation.

Ms White - So they are all specific to the pandemic? That would cover clause 19, the concerns that were raised about the public exhibition of certain documents? Cassy also raised similar concern around an earlier clause.

Mr GUTWEIN - We cannot issue notices unless we are satisfied that it is as a result of the pandemic circumstances.

Ms O'Connor - That is the word, it says the notices may only be issued by the minister or if he or she is of the opinion that the relevant emergency circumstances exist in relation to the notice.

Can you confirm that originally the intention to draft here was that those notices would be issued on the advice of the emergency director or the Director of Public Health?

Mr GUTWEIN - There is an additional requirement under clause 6, if we look at that -

Ms O'Connor - But if clause 6 says that the emergency manager only needs to approve these notices. You do not need to have advice from the emergency manager that it is necessary.

Mr GUTWEIN - This is where the feedback would come through the relevant minister's agency, for example, that this is occurring. The minister is of the opinion that it is needed but ultimately at the end of the day the emergency manager would either approve or disapprove. I think that is the closest. And it has to be done in accordance with the objectives.

Ms White - Are you still on clause 7, Premier?

Mr GUTWEIN - I am broadly ranging, I think. Scrutiny of notices. Is there anything particular? What is the question?

Ms White - I am presuming they are gazetted, but if parliament is not sitting because there is a concern and we wanted to disallow, what is the mechanism?

Mr GUTWEIN - My understanding is that the Subordinate Legislation Committee continues regardless of whether parliament sits or not. What happens if parliament cannot sit due to COVID-19 or for other reasons? How does this impact on the scrutiny of notices?

Ms White - That is an excellent question. Would you be able to answer that, Premier?

Mr GUTWEIN - If parliament is adjourned or in recess, copies of any notices will still be provided to the Subordinate Legislation Committee which will have the power to direct the minister to revoke it if the appropriate legislative requirements have not been met.

Ms White - My follow-up question is, what happens if the Subordinate Legislation Committee members are all unwell and unable to do that? I understand they have got 14 days, so what happens for the two weeks when the minister might have issued a notice to do something that we all find pretty abhorrent but they can do it for two weeks without having a check and balance in place?

Mr GUTWEIN - If the Subordinate Legislation Committee could not sit we would issue a notice and pull a new one together.

Ms White - We would replace them?

Mr GUTWEIN - We would replace them.

Mr O'Byrne - Would that come from the Government.

Mr GUTWEIN - Change the quorum in the way that they meet so we could meet electronically, yes. So if we not able to sit so we could change the -

Mr O'Byrne - Back in the old union days, if you wanted to get something done you would change the quorum.

Ms White - I want to doublecheck one thing: when the Subordinate Legislation Committee gets a notice they have 14 days, is that right?

Mr GUTWEIN - Whatever they normally get.

Ms White - I am not on the Subordinate Legislation Committee so I do not know.

Mr GUTWEIN - I am not either.

Mr O'Byrne - Normal notification of meetings would take place, all members would be invited, there would be a reasonable time for the meeting so people could get there. If people are sick, is there ability to call in? Do they have to be face-to-face?

Mr GUTWEIN - No, we could make those meetings electronically.

Ms White - I flagged that you may not be able to answer it but perhaps it can be clarified in the upper House. The reason I ask this question is that if parliament is not sitting so it cannot disallow and it goes to the Subordinate Legislation Committee and there is some kind of quorum convened that might be skewed a particular way, you just do not know. How long does the Subordinate Legislation Committee have to review a notice before they could move to disallow? Is

it 14 days or a different time frame? Can I leave that with you to provide a response to the upper House?

Mr GUTWEIN - Can we leave that one on notice?

Mr O'Byrne - To clarify, when I refer to the old union days, it was before my time.

Ms Ogilvie - Premier, on the same point, having been on the Subordinate Legislation Committee, they have not had to deal with these notices before so there is not a precedent. There is a decision-making process that rolls on and they only have the capacity to either approve or disapprove, so no amendments. It is important to recognise that element. You will need to think about a time frame for the Subordinate Legislation Committee if you want to impose one. That is my view.

Mr GUTWEIN - We will provide more clarity in the upper House.

Ms White - It says in the bill, clause 7(3) -

If a Minister issues a notice under this Act, other than a notice under section 27, he or she, within 14 days, is to send to the Committee a copy of the notice.

My question is, what happens in that preceding 14 days before the committee receives it? It would be given effect, presumably, which could mean that you could have some kind of bad outcome for the community with no checks and balances in place to protect against that, when parliament has to receive it within three days.

Mr GUTWEIN - It would need to be approved by either the State Emergency Commissioner or the Director of Public Health.

Ms White - Yes, I respect that that is a check. You cannot help but ask these questions because the parliament should have the power but, if it is rendered unable to convene for whatever reason, the Subordinate Legislation Committee has to be the backup.

Mr GUTWEIN - It would be, but the commissioner or the State Emergency Coordinator or the Director of Public Health would sign-off.

Ms White - They would only be issued with the approval of the emergency manager?

Mr GUTWEIN - It is three sitting days. In fact, it could be a much shorter period than what is specified in the acts.

What safeguards are there to prevent the Government from continuing to make these sorts of notices after we have dealt with the COVID-19 pandemic? That was raised by a couple of people.

The bill clearly sets out when and under what circumstances a notice may be issued. Under clause 27 the Director of Public Health must notify the minister as soon as possible if he is of the opinion that the issuing of notices under Part 4 relating to the production of public physical contact can no longer apply. Once the minister receives this advice, the minister has 90 days to declare the emergency cessation date.

The minister must act in accordance with advice provided by the Director of Public Health who is an independent statutory officer. Once an emergency cessation date is declared, remaining notices can be made or reissued and any remaining notices will be taken to have been revoked at 60 days after the emergency cessation date unless they are revoked earlier or otherwise expire.

There was a question about why is not the end date for legislation linked to the cessation of a state emergency or the cessation of a public health emergency? I will read the long form.

Public health emergency and a state of emergency declarations are critical to the responses to the COVID-19 epidemic. As a result of these declarations, specific provisions under the Emergency Management Act 2006 and the Public Health Act 1997 have been activated. The COVID-19 Disease Emergency (Miscellaneous Provisions) Bill is another important component to help with this response. The objectives of the bill are outlined in clause 3. It is to deal with certain risks and hardship arising from the presence and spread of disease. These risks and hardships may, and are indeed, likely to extend beyond the public health or state of emergency periods, particularly in instances where social distancing is still recommended. Given this, it is deemed prudent to allow notices to be issued for as long as the Director Public Health believes is necessary.

Ms O'Connor - I am not sure that deals with - pardon me, to the expert drafter - but clause 27 on the emergency cessation day, perhaps so it is clear in our minds, Premier, could you point us to the clause that provides for at least some controls over the minister conducting a coup and not declaring a specific day to be the emergency cessation day until three months after the Director of Public Health has notified the minister there is no further emergency circumstance?

Mr GUTWEIN - It comes back to the objectives of the act. If you were to allow the matter, as you have said, to go on and a coup to occur, which seems the furthest thing from my mind at the moment -

Ms O'Connor - Of course, but the clause allows for it.

Mr GUTWEIN - But you would be outside of the objects of the act.

Ms Ogilvie - Through the Chair, my understanding is that you can make a declaration which effectively lasts for 12 months. That is the object of the act - to address the COVID-19 crisis - so the declaration has to be ministerially directed, and has to be contained within that set of powers. So when the pandemic ends, there is no power to make a ministerial declaration. That in effect is what closes out the act. There is no sunset clause but it is the operation of that time line on declarations that does it.

Mr GUTWEIN - And acting in line with clause 3, which are the objects of the act itself, which are -

... to reduce the risks to the State, and the risk to, or hardship suffered by, members of the public, arising from, or related to, the presence of the disease in persons in the State or the risk of the spread of the disease between persons in the State.

So you are contained by the objectives of the act.

Ms O'Connor - Was any thought given to having a sunset clause in the act and then, as we might need to, coming in and extending the act?

Mr GUTWEIN - The short answer is, no. That was not considered. It is clause 11(2) -

The amendment or revocation of a notice under this Act is not to be taken to -

- (a) render invalid any action taken under a provision of an Act while the notice was in force; or
- (b) render invalid or unlawful any subsequent action that is taken, under that Act or another Act ...

If there were a sunset clause and the act were repealed, the intent of that clause would cease.

Ms O'Connor - This might sound like a dumb question: when does the act stop being operational? Is it in place, potentially, forever?

Mr GUTWEIN - Until parliament revokes it. Parliament would revoke the act but the power to issue new notices stops when the emergency ceases.

Ms O'Connor - Would it be your intention as Premier to have the act, as soon as we are back on a relatively -

Mr GUTWEIN - I wish we did not have the act at all, but here we are. Can the minister make a notice dealing with something that does not relate to the pandemic? Yes, but only in relation to economic hardships matters. Under section 23, the Treasurer can issue a notice waiving or deferring certain charges or fees or taxes if they believe that it is necessary or desirable, given the emergency circumstances that exist.

In all other situations, notices may only be issued by a minister if that minister is satisfied that the issuing of a notice is necessary or desirable because of, again, the presence of the disease, the risk of contraction of the disease, restrictions on movement have been imposed, reduction in the number of persons available to carry out legislative function, or the need to ensure the supply of goods and services. In terms of the economic hardship, which will be an ongoing challenge as we work our way through this, on behalf of all of us I want to say that whatever we do, it ain't going to be enough but we will do what we can.

What happens if parliament cannot sit? If parliament is adjourned or in recess, copies of any notices will still be provided to the Subordinate Legislation Committees. Importantly, the bill provides an avenue for the parliament to request that a notice made in relation to its conduct and procedures, which may allow the parliament to sit even where there are severe restrictions in place for social distancing and public physical contact. We could use video technology to meet if we need to, which is a very sensible provision to have available. We dealt with council meetings so we can enable them to go about their business. The bill covers that.

This was not raised but it is important. What happens if the Tasmanian Planning Commission or appeal tribunal needs to conduct a hearing through this? Provisions under section 18 that relate to alternative meeting procedures would also relate to them as well. They would be provided with flexibility.

Ms O'Connor asked about the planning powers in this. They will only ever be used on the basis of dealing with this pandemic. There is no way in the world we will use any of these powers for any other purpose.

Ms O'Connor - Thank you.

Mr O'Byrne - In doing so, and I take that at face value and I accept that but some people may say an economic response that is required could be a response to the pandemic.

Mr GUTWEIN - In terms of the rebuilding that might need to occur, and if I can put it this way, we will have that much pent-up infrastructure work and other projects that are in the budget and have already been approved. They are the things that will come out of the ground quicker.

Mr O'Byrne - Okay, you know my point.

Mr GUTWEIN - Yes, I understand exactly what you are saying. They are the projects that will be the initial response. They are the things that we will need to ensure that we have agencies continuing to work on to make certain that when we are on the other side of this, those projects that have already been in the planning and are already funded can come out of the ground.

Mr O'Byrne - Thank you.

Mr GUTWEIN - I can assure you, as Premier, I will not use this legislation for purposes other than what it is designed to do.

Ms White - Can I ask, on that point about planning, at clause 19, I asked the question about public exhibition of certain documents. I might have misunderstood the clause but the question I had is whether you were going to continue with consultation on things like major projects, or whether they will be deferred because of the limitations people now have in participating in that process?

Mr GUTWEIN - I would not see that under the current circumstances it would be reasonable to hold those processes now. We have to ensure we are in a position that people can, for obvious reasons, play the part that is expected of them through those public processes and that is going to be very difficult.

Ms White - It is a secondary issue.

Mr GUTWEIN - It is a secondary issue. We talked about shop trading hours. If we have to have supermarkets open, then we will have supermarkets open. We talked about planning permits for trucks. I was not aware, and it occurred in one of the other states a couple of weeks ago. They had pantech trucks lined up waiting to get in at 6 a.m. to provide deliveries and they could not. We have similar restrictions here. If the trucks are moving and bringing supplies, I do not care if they come in at 1 a.m. or 2 a.m., let's get them in and get done what we need.

If a fee or charge is waived, what happens when the notice is revoked? Will people become liable for those fees and charges? The bill provides that an action that is taken under the authority of a notice does not become invalid because the notice itself has been revoked. If we waive something, we waive something.

Ms White - I had a question about rents. Remind me if we don't cover it.

Mr GUTWEIN - Which one is that?

Ms White - If somebody is unable to pay their rent, but because of these provisions they can't be evicted, and if there is an accumulation of rent payable at the end of this, when it is lifted, are they liable to cover the cost?

Mr GUTWEIN - In the commercial leasing space, and this is a really difficult circumstance to work through, what the bill allows for is that the tenant cannot be evicted if they cannot pay their rent. But, at the end of the period, whatever the ministerial notice specifies, the rent can accrue. We need to ensure that we have the bank, the state government, the tenant, the landlord and the council all on the same page because it will take an effort from everyone to work through this. The other challenge in this is that whilst the banks have offered deferrals, and most of them have been advertising that they will defer repayments and those sorts of things, the leveraging that some landlords will have will be vastly different to others.

Ms Ogilvie - That is right, and the risk.

Mr GUTWEIN - Yes, and the risk as well. The provisions in the bill we have here are a first step. We are still working with the Commonwealth, which will have to play a role in this somewhere in terms of the engagement with the banks. What we have done to date in respect of this is to ensure that if you have a tenant who cannot pay their rent, they cannot be evicted. That provides the time to have the conversation and to try to work through and look at what we can do. Under the bill, for example, the state government could waive land tax, the council could waive rates on that particular property, shopping centre or whatever it might be as well, so everybody bears some of the pain but we keep somebody's business in place, so that when we get to the other side of it, away we can go.

There is more work that will need to be done and it is a wicked problem because not every landlord is somebody who is wealthy beyond means. There are a lot of mum and dad landlords in Tasmania who own a small shop somewhere and they have leased it out. I know from the pub game that there are many people who have worked, built it up, leased out their hotel and that is their superannuation. Everybody, through this, is going to bear a little bit of the pain and we have to find a way to do it. It buys the time; no-one can be thrown out.

Ms O'Connor - Residential tenants: there is an easy fix to this, Premier, through an amendment to clause 22, which we might put.

Mr GUTWEIN - A tenant could not be evicted under the terms we have here for non-payment of rent. In the way the process would work there is going to need to be a degree of common sense and goodwill between the parties as we work through this and provide the support that is necessary to have these conversations. The rental commissioner would be the adjudicator. The difference between a residential lease, largely, and a commercial lease is that residential leases do not generally have the ratchet clause, which is one of the things that is built into this so that nobody can have a rent increase on a commercial lease and cop the normal 3 per cent, plus CPI, whatever that might be. We were looking to protect people who could not pay their rent under the circumstances, that they could not be evicted, and then there is a process to work through.

Ms O'Connor - I flag with you that we have drafted an amendment to provide the same protections to residential tenants as are being provided to commercial tenants relating to rent increases. What is happening is that, with annual leases, rents are going up once a year.

Mr GUTWEIN - That can be dealt with under the act.

Ms O'Connor - What we are doing is putting the onus on tenants to go to the Residential Tenancy Commissioner if they have a problem. They are not being given the same support and comfort as commercial tenants.

Mr GUTWEIN - The commissioner would take the market conditions into account. A rent increase is not going to be approved.

Ms O'Connor - We will go into Committee and I do not want to do that, but we need to be able to provide the same support and protections to residential tenants as we are to commercial tenants. It is not that hard and, surely, on public health grounds, we would not be evicting people into homelessness.

Mr GUTWEIN - We are not.

Ms O'Connor - No, but there is still all sorts of potential here for tenants to be evicted, as Mr O'Byrne read out the Tenants' Union's concerns. There is all sorts of capacity here for tenants to be evicted into homelessness under other situations, such as that their lease has expired in the middle of a pandemic. New South Wales has moved to protect residential rentals.

[4.14 p.m.]

Ms ARCHER - Madam Speaker, I move -

That the Premier, pursuant to standing order 115, have leave for an extension of time for 30 minutes.

Motion agreed to.

Mr GUTWEIN - I do not know if this will satisfy you, but with the powers available under the act we can issue guidelines in relation to public and social housing and ensure that matter does not occur.

Ms O'Connor - That does not cover people in the private rental market who might be evicted for other reasons, including that their landlord does not like them and says that the lease is expiring.

Mr GUTWEIN - If we need to go into Committee, we need to go into Committee, but I cannot see very many landlords looking for a better deal from a tenant at the moment.

Mr O'Byrne - We would hope that they would not do that.

Mr GUTWEIN - It is just not going to occur. In a market where we have nearly 50 000 people or so out of work, it is not exactly going to be a hot market, Ms O'Connor.

Ms O'Connor - No, I understand that we do not want people to be evicted into homelessness in a pandemic because that is a public health issue.

Mr O'Byrne - Even for a period, like an automatic extension.

Mr GUTWEIN - Do you have an amendment that you want to circulate if we go into Committee?

Ms O'Connor - As a matter of fact, I do.

Ms White - The Tenants' Union has made quite clear and good points.

Mr GUTWEIN - In the main, I have covered most of the issues raised. Is there anything outstanding?

Ms White - Is this a straight lift from the Tenants' Union advice?

Ms O'Connor - No, but it covers the Tenants' Union's concerns. If you go to clause 22(2), it means that those protections apply whether it is a commercial or residential tenancy.

Mr O'Byrne - You would still, even if it is by agreement, be able to do that. You just cannot terminate at the insistence of the landlord. Some people may want to go, so by agreement -

Ms White - Not renewing your lease is not a termination.

Mr GUTWEIN - I do not know whether this will satisfy you but, under the act, which would be the Residential Tenancy Act 1997, section 45, Order for vacant possession, the orders that can be issued by the Residential Tenancy Commissioner are wide enough to capture properties that are not in public or social housing as well, so we can issue a guideline in terms of conduct.

Ms White - How enforceable is the guideline?

Ms O'Connor - It is not, because it will not be a notice. What we are trying to say is that the minister should be able to issue a notice to make sure that rents are not being jacked up.

Mr GUTWEIN - The court would have regard for that guideline if a landlord was seeking to evict.

Ms White - You have to appeal it.

Ms O'Connor - Yes. We will have the argument respectfully in the Committee.

Mr GUTWEIN - On that basis, we are moving to Committee. I have covered matters that were raised.

Ms White - On housing, do these provisions cover those tenants in public and social housing?

Mr GUTWEIN - Yes, they do.

Mr O'Byrne - Can you also tell us whether the Residential Tenancy Commissioner will be given the extra resources and support they may need to expedite any issues?

Mr GUTWEIN - They will have no problem with resources.

Mr O'Byrne - Thank you.

Bill read the second time.

COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS)

BILL 2020 (No. 14)

In Committee

Clauses 1 to 21 agreed to.

Clause 22

Provisions restricting rent increases or termination of commercial tenancies

Ms O'CONNOR - We want to make sure that with this very significant suite of measures that has been put in place, not only to keep people safe but to buffer people from the what are likely to be devastating economic impacts of the pandemic, that commercial and residential tenancies are treated in largely the same way. That is, there is an acknowledgement that hardship is here and it will deepen. There is an acknowledgement that the Government will need to provide protections for tenancies whether they are in commercial tenancies or residential properties.

In this legislation if the minister can, by notice, declare that despite any provision of a lease, and this is in relation to commercial tenancies, a lease that is within a class of lease specified that the notice must not within the emergency period be terminated and the rent payable under the lease may not be increased in the circumstances set out in the notice.

It is very clear in clause 22 that the Government is prepared to provide a freeze on rent increases, effectively, for commercial tenancies but this legislation leaves residential tenants to go and make their case to the Residential Tenancy Commissioner or take the matter to court in a pandemic.

Madam Chair, we can do better than that. As I understand it, we have had members working across parties again in New South Wales and they have brought in these provisions that protect tenants from evictions but also make sure there is downward pressure on rents during this period of emergency and crisis response.

I move the following amendment -

In subclause (2) omit 'other than a lease to which the Residential Tenancy Act 1997 applies'.

This would make sure that in giving the minister the authority to issue a notice to protect tenants from some of the economic impacts of the pandemic, we are also giving the minister the authority to protect tenants in the private rental market.

I take on board what the Premier said earlier about the housing market which a month ago would have been described as hot, is going stony cold. I know that owners of Airbnb properties are now putting their Airbnb property on the rental market so there will be more choice of homes for people. However, there is still a risk that if someone has lost their job and money is already an issue for them, they are doing their best to pay their rent and they are in arrears, what we are saying

here is that they cannot be evicted because their rent is in arrears. But they might be right on the edge and the landlord says, 'your lease expires in a fortnight. You have to go. I have something else I want to do with this house.'

We need to make sure we are looking after landlords as well here. I accept that we are not talking about a cohort of uniformly wealthy people. However, we need to be able to protect people living in their homes from eviction in a pandemic. There are good reasons for this on social grounds. There are very good reasons for it on health grounds because we are potentially putting someone out of a home and they are either going to be exposed to the virus risk or potentially be exposed to and spread the virus if they do not have somewhere to call home.

I am mindful of that when we all say stay home if you can. Some people do not have homes to stay in. We need to make sure we are doing everything we can to keep people in their homes. While we are not seeking to totally disempower landlords here, commercial landlords will have rent freezes put on them for properties that they own. I have a friend who has quite a good portfolio of commercial properties and I know these changes will impact on her. But for people living in rental homes we need to have more protections in place than are in the legislation at the moment and, at the very least, they should be equal to the protections that we are giving commercial tenancies.

Mr GUTWEIN - I do not disagree with you at all. Under the guidelines, my view was that we could achieve that outcome but in terms of what you proposed I am more than happy to include that as an amendment. We will accept your amendment and -

Ms White - On the amendment, I note that it does not amend the heading in clause 22 which talks specifically about commercial tenancies.

Mr GUTWEIN - It is still a commercial lease whether it is residential or not. We will deal with it through ministerial order.

Ms O'Connor - Are we accepting the amendment?

Mr GUTWEIN - Yes, we all want the same thing. We do not want people in the middle of a pandemic to be out on the street. I am happy to accept that amendment.

Ms O'Connor - Great, thank you.

Amendment agreed to.

Clause 22, as amended, agreed to.

Clause 23 to 31 agreed to.

Schedules 1 and 2 agreed to.

Title agreed to and bill taken through remaining stages.

Third Reading

Mr GUTWEIN (Bass - Premier) - Mr Speaker, I move -

That so much of Standing Orders be suspended as would allow the bill to be read for the third time.

Motion agreed to.

Bill read the third time.

**JUSTICE LEGISLATION AMENDMENTS (CRIMINAL RESPONSIBILITY) BILL
2020 (No. 3)
TAXATION AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS)
BILL 2020 (No. 13)**

Bills agreed by the Legislative Council without amendment.

SUSPENSION OF SITTING

[4.31 p.m.]

Mr FERGUSON (Bass - Leader of Government Business) - Madam Speaker, I move -

That the House be now suspended.

The House suspended at 4.32 p.m. until 10 a.m. tomorrow morning.