PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 28 October 2021

REVISED EDITION

Contents

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The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

MESSAGE FROM HOUSE OF ASSEMBLY

Resolution - Joint Select Committee 2021 State Election and 2021 Legislative Council Election - Resolution Negatived

Mr PRESIDENT - The House of Assembly having taken into consideration the following resolution communicated to it by the Legislative Council on the 29 June 2021 resolved that a Joint Select Committee be appointed with the powers to send persons and papers with leave to sit during any adjournment of either House and with leave to adjourn from place to place to inquire into and report upon -

1. All aspects of the conduct of the 2021 State Election and 2021 Legislative Council elections and matters related thereto.

2. That the number of members to serve on the said committee on the part of the Legislative Council before,

Has not agreed to said resolution.

Mark Shelton, Speaker
House of Assembly
27 October 2021

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

First Reading

Bill received from the House of Assembly and read the first time.

[11.05 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

> That the second reading of the bill be made an order of the day for next Tuesday 2 November 2021.

Motion agreed to.

RECOGNITION OF VISITORS

Mr PRESIDENT - I welcome some guests to our Chamber. It has been a good week for visitors. We should feel pleased that people want to visit us. Ben Hiscutt, the partner of our Leader, and long-term family friends. I am sure all members will join me in welcoming you to the Chamber today.

TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL AMENDMENT BILL 2021 (No. 46)
TASMANIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (CONSEQUENTIAL AMENDMENTS) BILL 2021 (No. 47)
VALIDATION BILL 2021 (No. 39)
MUTUAL RECOGNITION (TASMANIA) AMENDMENT BILL 2021 (No. 42)
POISONS AMENDMENT BILL 2021 (No. 35)

Third Reading

Bills read the third time.

LAND (MISCELLANEOUS AMENDMENTS) BILL 2021 (No. 43)

Second Reading

[11.10 a.m.]

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

That the bill now be read for the second time.

The primary purpose of this bill is to improve and amend land-related legislation. This bill creates clarity and consistency within legislation whilst improving, modernising and streamlining processes in preparation for the introduction of national electronic conveyancing in Tasmania.

Key legislation administered by the Recorder of Titles amended by this bill includes the Land Titles Act 1980, the Land Titles Regulations 2012. There are also minor consequential amendments to other land-related legislation where powers and functions of the Recorder of Titles apply. The Land Acquisition Act 1993 is also amended by this bill.

The Land Titles Act 1980 has been in force for about 40 years and the minister was pleased to announce on behalf of the Government that the 60-day period for the duration of a priority notice under section 52 of the Land Titles Act will now be extended to 90 days.

A priority notice provides crucial protection on a property title for the period between settlement of the purchase of the property (or earlier) until lodgement of documents within the Land Titles Office to give effect to the transfer of the title to the property. The increased period of 90 days more appropriately aligns with the real time requirements that apply to the

conveyancing transaction, affording the opportunity to enjoy the protection of a priority notice from the first available opportunity until lodgement of documents has been effected.

The prescribed period will be removed from the Land Titles Act and will be included in the Land Titles Regulations. The commencement and expiration of a priority notice will be clearly defined. This move has had support from the legal profession and I am pleased to announce that it will now be implemented in this bill.

The bill will also clarify the operation of section 63 of the Land Titles Act which deals with the process and the effect of severing joint tenancies between landowners. If a joint tenant dies the surviving joint tenant inherits the whole of the property, despite the contents of that person's Will. A tenancy in common has the opposite effect to a joint tenancy and allows a tenant in common to deal with their share under their Will.

Section 63 provides a way for a joint tenancy to be ended by the decision of one owner, which is an important right. The intended changes clarify the operation of section 63 where there are more than two joint tenants and reflects the common law position. The bill will clarify that if an owner in a joint tenancy relationship of more than two owners severs their interest to become a tenant in common, their actions will now leave untouched the joint tenancy relationship between the remaining owners. Therefore, the bill will address any unintended consequences by not ending the whole joint tenancy between the remaining owners.

This upholds the rights of the remaining joint tenants to decide what they wish to do between themselves. This is a sensible protective measure so that their joint tenancy and estate planning decisions are not automatically changed by default by the actions of one owner.

Another major accomplishment of this bill will be refinement of the language throughout land-related legislation regarding the use and issue of paper certificates of titles, which introduces consistency. This will allow for future change and is another step towards continuous improvement in the digital transformation of a heavily paper-based process.

The bill will also modify terminology and remove confusion around the need to lodge dealings in duplicate with the Recorder of Titles. For a number of years the Recorder of Titles has not required documents to be lodged in duplicate. Despite this, the Land Titles Act and numerous other pieces of land-related legislation continue to refer to 'duplicate registered dealings' on the assumption that duplicates are either required or have been lodged.

As a significant step towards modernisation and contemporary community standards, the bill also introduces gender-neutral language throughout the Land Titles Act 1980 when referring to a person or to the Recorder of Titles resulting in multiple amendments to that act to reflect that change. Further, the opportunity has been taken to make similar changes to sections of other legislation where they are being otherwise amended by the bill.

The bill will generally improve the Land Titles Act and Land Titles Regulations and achieve greater clarity and consistency. The amendments also continue to uphold the integrity of documents lodged with the Recorder of Titles such as by requiring appropriate amendment and initialling of alterations and appropriate certification and translation of documents that are not in the English language.

This bill also amends the Nature Conservation Act 2002. Section 32A of that act allows the responsible minister to add, amend or omit species named in specific schedules in the regulations by order. The amendment will remove reference to specific numbered schedules which is considered unnecessary to retain.

The act is also amended by replacing the current specific reference to the Wildlife (General) Regulations 2010 with a general reference to 'regulations made under the Act'. Amending the act to remove specific references to a particular named set of regulations, mitigates the need to amend the act itself every ten years to refer to those remade regulations by individual title. The bill will also improve the Land Acquisition Act which establishes the land and acquisition process that is administered by the Valuer-General. This act has been in force for over 27 years and sets out the process for acquisition of land in Tasmania by both Crown and non-Crown acquiring authorities.

Consistent time frames within that act will now be clarified, including allowing a mortgagee a longer period of six months to lodge a claim for compensation or notice of election instead of the currently prescribed 60-day period. This will ensure consistency with time frames that apply for other interested parties such as the property owner. The Office of the Valuer-General has introduced new electronic processes for land acquisition aligning with practices in other jurisdictions. I am also pleased to announce this bill will now allow electronic signatures on notices on behalf of the minister and allow electronic service of notices between the landowner and the acquiring authority. This will streamline the acquisition process significantly and achieve greater administrative efficiency.

Mr President, I commend the bill to the House.

[11.18 a.m.]

Ms FORREST (Murchison) - Firstly I would like to acknowledge the briefing provided, it was really helpful to go through a number of the points to get clarity. I do acknowledge the very thorough approach taken to that briefing, the people who briefed us, also the clause notes attached to this bill. They have been very comprehensive and provide a lot more detail than we often see in other bill clause notes, which basically just restate the clause. I want to make that point, it is really much appreciated when I am trying to understand, particularly an amending bill with a lot of changes, to actually clarify that is what we are talking about. I hope the Leader will pass that back through the system, it would be really good to see that sort of approach taken in other areas potentially. I just want to acknowledge that.

As stated by the Leader in her second reading and in the documentation we have been provided with this bill, the primary intention of this bill is to improve the existing land-related legislation. These amendments are considered minor and non-contentious. You could argue that these things are really important to address in terms of futureproofing this type of process, where more and more of us rely on electronic means for communication and storage of documents. If I have to find paper copies of some of the things I rely on at times, it is a bit of a shambles; but it can be easier if you have done a decent filing job on your computer system, you can find documents. That is also a challenge, I might add; but at least you have search functions in your computer that do not apply to a filing cabinet of papers. I note these changes, and agree they are appropriate and important.

A number of acts are being amended through this process, and they are generally linked to the land and use of land. The other matter that takes up nine-tenths of the amendments is

the changes to the gender-specific references in these acts and the land generally. In so many of our pieces of legislation, everyone is a male. In our committee acts, on our joint House committees, they are all males - the members, the chair, the secretary, everyone is male. I consider it is high time that we started doing some of this work, particularly when we are bringing in other amendment legislation, because that is when you can start the process. I know that new bills that come through are generally non-gender specific, but it is time to deal with some of these. Here is a model that can be followed. It does make for a large bill in itself, but it is about time we did it.

Mr Valentine - It has to be done.

Ms FORREST - Yes. Anyway, all power to the people in the Land Titles Office and that area which has done all that work, because it is significant.

There are also provisions that create clarity and consistency around time periods, and I believe that is important. It can become a sticking point in an argument about whether a particular document was lodged or served in the time frame required. It is appropriate; and using consistent terms is also important.

When I went through this bill at an earlier time, where it refers to the Nature Conservation Act amendment, I thought really, what is that doing in here? As far as I could see, it was not much at all to do with the matter in hand. However, according to our briefing this morning, it was opportunistic. It may have sat better in a miscellaneous amendment bill for Justice. However, here it is. It is not a significant issue but when I got to it, I thought, how does this possibly relate to what we are doing with this bill?

I note this bill also amends the Land Titles Regulations. These were made in 2012, and are due for review now, because they will have to be remade next year. I asked the question in the briefing, although it does not really require a response as such, Leader - why were they not remade now? I know the provisions that have been put in this bill will form part of the remade regulations when they come forward; but it seemed to be a duplication of effort when the 10 years are up and it is time to review them. One would hope that all departments start their review at least 12 months out from the 10-year period. I know most of them are now, because we no longer get a repeal of regulations bill every year that used to come with about 30 or 40 regulations that they wanted an extension for, because they had not got around to it. I do not recall seeing one of those bills in the last few years, so, clearly the departments have improved on those matters and have systems in place to ensure they do not slip through.

Ms Rattray - Perhaps the departments have realised that the committee simply will not put up with it.

Ms FORREST - The parliament will not put up with getting that sort of slate presented in here.

Interestingly, the Subordinate Legislation Committee is dealing with a regulation at the moment that, from memory, expired 10 years ago. Suddenly, 'oh, we had better fix this'. Some still slip through; but there was no repeal of regulations bill for that one. Sometimes, there are legitimate reasons why they should not be extended. I am not saying it should not ever happen. It should not be extended due to lack of effort, or failure to attend to the statutory requirements regarding regulations.

There are several important parts to the bill; but in particular, the change to the provisions around joint tenancies and tenancy in common. There was a provision change in 2012, such that if there were several parties to a joint tenancy, and one of them chose to sever their part of the joint tenancy, that meant all parties in the joint tenancy were severed. This can be unfair, and I believe was not an intended outcome.

Reiterating the Leader's comments in her second reading:

> The bill will clarify that if an owner in a joint tenancy relationship of more than two owners severs their interest to become a tenant in common, their actions will now leave untouched the joint tenancy relationship between remaining owners. Therefore, the bill will address any unintended consequences of not ending the whole joint tenancy between the remaining owners.
>
> This upholds the rights of the remaining joint tenants to decide what they wish to do between themselves. This is a sensible protective measure so that their joint tenancy estate planning decisions are not automatically changed by default by the actions of one owner.

I asked some questions about this in the briefing. I asked when that decision is made for one member of a joint tenancy - where there are more than two - who decides to sever that joint tenancy, whether that was to become a tenant in common. The answer, as I understood it and I need some clarity on this, was that it may not be that they want to be a joint tenant and it is a matter for them to get legal advice on the best way to approach it.

The second reading speech says, 'severs their interest to become a tenant in common', but the bill does not say that. The bill leaves that open, and that is why I was asking the question. Effectively, it provides for all joint tenants not to be severed at once. If the Leader could clarify that, because there is more than one way to deal with this. You can become tenants in common. The one person who wants to sever their joint tenancy can have their own tenant in common aspect that they can then deal with separately under their estate.

I understood there were other options for members of that joint tenancy, once that was severed, to look at applying through partition to be able to sell that portion of the land or the property. It may not be easy to do that. It may not be something that can be sold in parts. It could be a large building that you cannot divide up, or it could be a parcel of land that is very hard to carve off equally without losing value in the property, for example. There can be significant fallings-out in joint tenancies. Joint tenants are often members of family and it can become very messy in some of these settings.

I ask the Leader to provide more clarity about the mechanism for how that would work. If someone severs their joint tenancy arrangement, the other parties remain in, being that there is more than one other - two, three or four left - is it just to become a tenant in common as the second reading speech says, or are there other options and other mechanisms that can be engaged for that person who severs the joint tenancy?

The other aspects I have not referred to relate to modernising aspects of the bill, such as dealing with the unnecessary references, the duplicated registered dealings that are no longer necessary. A lot of this is because we are now living in an electronic age where things are

much more easily kept safely without having to have duplicate copies. When it is electronic you can make as many copies as you like. Also with the serving of documents, or receiving of documents electronically, we just seek some clarification around how the Titles Office ensures they have the most current and preferred email address of a person dealing with Land Titles Office through that communication. This is to ensure they are using an email address that the person has actually chosen or provided as the one through which to contact them. This could be important for people who have multiple email addresses, who use them for different purposes. If it is a private dealing you should not probably be using your business address, and those sorts of things.

There are just a couple of points I would like the Leader to follow up on, otherwise I commend the department for the work they have put into this bill, particularly for the documentation provided to us and again for removing all those gender references while they had the opportunity. I support the bill.

[11.31 a.m.]

Ms LOVELL (Rumney) - I will not speak for long and make a very brief contribution primarily to thank the officials who came to brief me on this bill a couple of weeks ago. There was a large group of officials who came to the room. There has been a large amount of time spent and a lot of work on this bill. I wanted to acknowledge that and thank them for this.

Primarily, this is a bill that is in large part administrative. It does not mean it is not important and there are not significant changes, but a lot of this is about modernising the acts and the regulations, bringing into line some outdated and gendered language and recognising a large amount of what we do these days is done electronically and fixing some inconsistencies. I support the bill. I wanted to acknowledge the work gone into it. It is a sensible bill.

[11.32 a.m.]

Mr VALENTINE (Hobart) - I, too, support this bill. It is always good to see modern practices, at least bills that are changed to provide the opportunity for modern practices to be put in place. It is certainly happening with regard to this bill. Of course, when you do that, you are starting to enter a different paradigm of operation. Into the future it may well result in a different paradigm. There is only one question with respect to this. I did not actually ask it this morning during the briefing, but it is in relation to the minister's signature being able to be used. Quite clearly the minister's signature is a very important signature. The minister usually goes with it. But when it is electronic the strictures around that and how that is controlled is interesting to me. Obviously, there is greater opportunity for things to go a little awry dealing in the electronic domain.

I would be keen to find out how that is intended to be controlled with the minister's electronic signature being used. If the Leader could explain about that in her response, that would be great. Obviously, an important change is occurring here with regard to joint tenants and tenants in common. It certainly will provide people with better options for assets or parts of assets that are indeed lawfully theirs. It might also create some issues or difficulties with how people may wish to deal with that part of an asset that is now theirs. I am sure there are legal processes and procedures that can be used in place already to deal with that. It is good to see we are actually improving things for people in the way they can deal with their own asset. I support the bill and it is good to see the gendered aspects of these various bills being addressed. There is going to be a heap of them. I do not know how many pieces of legislation exist in Tasmania, but every one of them is going to have gender issues. We need to be moving

with the times and this is a good start. I also thank those who briefed us this morning and acknowledge the efforts they have put into this bill and thank them for the very fulsome information provided.

[11.36 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, to deal with the member for Hobart's final question on the electronic signatures. The second reading speech, and I will reread that second last sentence. It says -

> I am pleased to announce this bill will now allow electronic signatures on notices on behalf of the minister.

So, it is not the minister's signature, it is the signature of the Valuer-General as described to us in the briefings who signs off on these things on behalf of the minister. It is not the minister's, it is someone on behalf of the minister.

Mr Valentine - Okay.

Mrs HISCUTT - I will seek some more information on the other questions.

Mr Valentine - It still applies, even the use of the Valuer-General's electronic signature would still have to have significant controls around it.

Mrs HISCUTT - We are talking about regulations, to start with, for the member for Murchison. The process started on this bill over 12 months ago but COVID-19 delayed matters. Work is underway on new regulations also amending section 52 of the Land Titles Act and taking the prescribed period out of the act and putting in a new regulation 18A, making it necessary to amend the regulations now on that point.

Ms Forrest - Fair enough.

Mrs HISCUTT - Fair enough. On emails, the Land Titles Office does not accept documents lodged by email, generally. The bill intends to introduce electronic service regarding the Land Acquisition Act, not the Land Titles Act.

Joint tenancy: it is not possible to undo a severance. However, it is possible to readjust how the ownership is held between owners by way of transfer of land under Part VI of the Land Titles Act 1980 if the owners wish to hold as joint tenants again or change the title and hold it in a different share, in a different way. Once a joint tenancy is severed, the remaining joint tenants can still sever further, if they wish. If there is a dispute, it is a matter for further advice and action between the parties.

Ms Forrest - That is the people who remain in the joint tenancy. I was talking about the person who severs. The second reading speech, basically, says they are doing it to become tenants in common.

Mrs HISCUTT - Correct.

Ms Forrest - Is that the only mechanism they are allowed or can they then try to liquidate that -

Mrs HISCUTT - They could try to liquidate that or transfer it or do something with it.

The Valuer-General signature controls are managed within validation systems with relevant controls as part of the electronic workflow approvals process.

Bill read the second time.

LAND (MISCELLANEOUS AMENDMENTS) BILL 2021 (No. 43)

In Committee

[11.43 a.m.]

Madam CHAIR - When we call the clauses, particularly in the Land Titles Act, Part VIII, we will break those up into sections not of one or two, but a few and rely on members to get up and make the calls where they have got matters to raise in those sections.

Part 1, Clauses 1 to 2 agreed to.

Part 2, Clause 3 agreed to.

Clause 4 -
Section 10 amended (Effect of registration of abandoned land notices)

Mr GAFFNEY - Where it says section 10(4) of the Principal Act is amended by omitting 'shall issue' and substituting 'may issue', it was clearly explained this morning that was in case of future electronic and we understand that.

If you go to the principal act, and it is saying:

> (4) Subject to subsection (5), upon registering the Crown as proprietor of land pursuant to section 9, the Recorder shall issue a certificate of title in the Crown's name to the Director.

If I issue a statement, I can do that verbally to the press. I can do that in hard copy to the press or I can do it electronically. So, I have issued a statement.

What I see this doing is 'may' is discretionary in the interpretation of the act. So, 'may' means you can do it electronically or hard copy. 'Must' or 'shall' is mandatory.

I think that it is still mandatory for the Recorder to issue a certificate of title in the Crown's name to the director, be that electronically or be that in hard copy.

My concern here is that we are actually saying the Recorder 'may' issue a certificate of the title in the Crown's name to the director. Which means that they do not have to do that.

My concern here is that the intent is that the director shall receive something. By actually putting the word 'may' there, they may receive it electronically, they may receive it hard copy or they may not receive it at all.

I want that to be clarified on *Hansard* for the record, so that whilst the end result could be hard copy or electronically, it still has to be mandated that there is some receipt.

Mrs HISCUTT - The reason for the change relates to the issue of a paper title. Importantly, it does not change the obligation of the Recorder to update the register of land that he maintains under section 33 of the Land Titles Act. Section 39 of the Land Titles Act deals with the register being conclusive proof of what is in the register and what is the true register, not the paper certificate of title.

Mr GAFFNEY - I am not belabouring it; I understand what is meant to happen. If you go to that clause we are trying to change, 10(4) of the principal act, 'the Recorder shall issue a certificate of title in the Crown's name to the Director'. That means they must, it is mandatory. We are changing that to 'may' because to me, the issue is not whether they should; the issue is at the other end whether they can do it electronically, by hard copy or by any other means. I do not mind, but as long as we have it on *Hansard* that is exactly the case.

If we change it to 'may issue a certificate', that gives the Recorder the capacity to say, I forgot to order that; or forgot to record that.

Mrs HISCUTT - Your point is taken; but this creates consistency with section 33(8) of the Land Titles Act, which already provides that the recorder may issue a certificate of title. It is the reform of the paper process. It does not take away the obligation of the Recorder to accurately register and record in the interests of the user.

Mr Gaffney - I am very happy with that.

Mrs HISCUTT - It is on *Hansard* now.

Clause 4 agreed to.

Part 2 Clause 5 agreed to.

Part 3 Clauses 6 and 7 agreed to.

Part 4 Clauses 8 and 9 agreed to.

Part 5 Clause 10 agreed to.

Part 5 Clause 11
Section 84D amended (Vesting of blocks subject to rights of way)

Ms RATTRAY - I appreciated the clause notes that came with the bill, they are very detailed. There is a lot of building activity happening around the state, with subdivisions popping up here, there and everywhere. Will this enable a faster turnaround for titles? As we know, issuing of a title is imperative to being able to source finance to build a home. I am interested in whether this will enable the process to be a more timely arrangement.

Mrs HISCUTT - While the member is on her feet, you are talking about vesting of blocks subject to rights of way here?

Ms RATTRAY - Yes. Is that around the certificate of title? Is it going to make it a speedier operation? It can be quite a slow process at times. I know it is around issuing of titles. Vesting of blocks subject to rights of way - that is all involved when you get a title and the title goes off if you need to borrow some money.

Mrs HISCUTT - We are seeking some advice, but the intention is to streamline it.

Ms Rattray - It might have been better under clause 13, but I have asked it now.

Mrs HISCUTT - The land titles transformation process is continuing, including business system improvements, which will deliver efficiencies. It is consistent with reviewing all the Land Titles Office's processes in an ambitious reform program. Again, the amendment is principally focused on the paper issue of titles, not the process.

Clause 11 to 35 agreed to.

Clause 36
Section 27A amended (Certain Crown land may be brought under this Act)

Ms RATTRAY - Anyone watching these proceedings today will think we are letting things go through quite quickly. These clauses we are saying yes to are all about gender, changing the language, and having 'he', 'him' or 'his' changed to 'the person'. Is that correct, Leader?

Mrs HISCUTT - Yes, I can confirm that is correct.

Madam CHAIR - There were no women to be seen anywhere.

Clause 36 agreed to.

Clauses 37 to 44 agreed to.

Clauses 45 to 57 agreed to.

Clauses 58 to 66 agreed to.

Clauses 67 to 80 agreed to.

Clauses 81 to 101 agreed to.

Clauses 102 to 121 agreed to.

Clauses 122 to 143 agreed to.

Part 9
Clauses 144 to 149 agreed to.

Part 10
Clauses 150 and 151 agreed to.

Part 11
Clauses 152 and 153 agreed to.

Part 12
Clauses 154 and 155 agreed to.

Part 13
Clauses 156 and 157 agreed to.

Part 14
Clauses 158 to 161 agreed to.

Part 15
Clauses 162 and 163 agreed to.

Part 16
Clause 164 agreed to.

Title agreed to and bill taken through the remaining stages of the Committee.

Bill reported without amendment.

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

That the third reading of the bill be made an order of the day for tomorrow.

Motion agreed to.

ALCOHOL AND DRUG DEPENDENCY REPEAL BILL 2021 (No. 40)

Second Reading

[12.04 p.m.]
Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mister President, I move -

That the bill be now read the second time.

The purpose of this bill is to repeal the Alcohol and Drug Dependency Act 1968 also known as the ADDA. It is important to review laws that are no longer relevant. The ADDA is more than half a century old. In the last five decades, our society, our knowledge, and our practices, have changed greatly, and the ADDA - its purpose, its language, and its format - no longer reflects community expectations or contemporary medical or treatment practices. To give you some sense of the context of when this legislation was made, consider for a moment the name and date of legislation it replaced - namely, the Inebriates Act 1885 and the Inebriate Hospitals Act 1892.

The bill today recognises this and repeals the ADDA and its subordinate legislation. The bill also makes minor consequential amendments to the definitions in three other pieces of legislation. Rather than speak to the bill, which is the mechanism for the repeal, I think it is more useful today to consider the substance of the act that we are repealing.

In its current form, the ADDA defines alcohol and drug dependency and provides for the admission and detention of persons suffering from alcohol or drug dependency to a designated treatment centre for up to six months. But it does not provide authority to actually treat that person.

The ADDA also establishes a tribunal. The tribunal's functions are, however, limited to hearing applications from people who are seeking discharge from the treatment centre. Importantly, the tribunal has no formal decision-making role in relation to the original decision to detain a person in a treatment centre.

We can summarise the issues within the act into five points:

First, the ADDA is out of date, confusing and difficult to apply. There have been – by the minister's count – more than 20 amendments to the ADDA since it was first made, and large parts of the ADDA have been repealed or superseded by new legislation. Court-mandated treatment orders, for example, were removed from the ADDA in 1997 with the making of the Sentencing Act that year.

Second, contrary to basic human rights, the ADDA permits a person with decision-making capacity to be detained against their will for up to six months. And yet, the act does not provide authority to treat a person who has been detained without their consent. This effectively means that treatment may only be given to a person who is being detained if the person consents, or if the treatment is authorised under the Guardianship and Administration Act 1995. This essentially makes the ADDA redundant.

This leads us to the third issue, which is that the approaches underpinning the ADDA are out of step with current, evidence-based approaches to alcohol and drug service delivery. There is some evidence that compulsory treatment for short periods can be an effective harm - reduction mechanism for some people. But there is no evidence to support long-term involuntary detention as an effective treatment approach, especially if that detention is without treatment.

The fourth issue is that while the act provides for an independent tribunal, its operation is limited and does not extend to making decisions about a person's admission to a treatment centre, or to regularly reviewing a person's detention. Tellingly, the tribunal has received only two applications in the last 18 years, with the last being received in 2009.

Indeed, this takes us to our fifth and final issue - the ADDA's use has been in steady decline and it has not been invoked at all since early 2016. The ADDA is not used because people suffering from alcohol or drug dependency can, and do, seek out and receive treatment and services on a voluntary basis like any other consumer of health services.

Our Alcohol and Drug Service within the Tasmanian Health Service works incredibly hard with people with severe substance dependence and their families to identify admission pathways that do not require or involve the ADDA or involuntary detention. Under this model

people are admitted with consent as a voluntary patient or under authority of the Guardianship and Administration Act. In these circumstances, consent to or authority for admission is sought alongside consent to or authority for that treatment. And as part of the same discussion people who are admitted are free to leave at any time.

Reviews as far back as 2007, have recognised the ADDA was out of date and not reflective of contemporary service delivery. And I am pleased to bring forward legislation that acts on those reviews.

The Government now proposes the repeal of this legislation and I commend the bill to the House but then want to adjourn.

I would like to seek leave to adjourn the debate for the purposes of a briefing as requested by some members.

Debate adjourned.

SUSPENSION OF SITTING

[12.11 p.m.]

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

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

This is for the purposes of the briefing.

Sitting suspended from 12.10 p.m. to 2.30 p.m.

QUESTIONS

St Helens Hospital Site Future Use

Ms RATTRAY question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.32 p.m.]

Following questions I asked in August 2019, and March and September 2020 in regard to the former St Helens Hospital site and its future use, and given that operational responsibility for the site was formerly transferred to the Department of Communities Tasmania, with advice being provided, following my last question, that the site was being used as a COVID-19 testing facility until the end of March 2021, can the Leader provide an update on what progress has been made to identify a long-term use for this fantastic facility?

ANSWER

I thank the member for her question. The site is currently leased to Ochre Health for use as a COVID-19 testing clinic, COVID-19 vaccination centre and stand-by respiratory clinic,

should it be needed. The current lease expires in April next year and at this stage it is not known if the lease is required beyond that point. If the lease is not required beyond this time frame, a request for expression of interest will be released, seeking proposals to acquire the site. Proposals will be assessed against criteria which will include value for money and community outcomes.

COVID-19 - Quarantine Breaches

Mr VALENTINE question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.34 p.m.]

For the purposes of having factual information placed on the public record and to avoid further speculation with regard to the circumstances surrounding the COVID-19-positive Launceston teenager recently detected:

(1) On what grounds was the individual permitted to return to Tasmania?

(2) Was the individual vaccinated prior to coming to Tasmania?

(3) Was the individual tested prior to returning to the state, and if so what was the test result?

(4) Why was the individual permitted to bypass hotel quarantine?

(5) Why was the individual permitted to quarantine at home with what appears to be a number of family members?

(6) Was the family instructed to not allow visitors into their home?

(7) What instructions were issued to the individual and their family when a COVID-19-positive test was returned?

(8) Were any penalties applied to those found to have breached COVID-19 rules associated with this incident?

(9) Are there other individuals who have been permitted to enter Tasmania over the past two months under the same provisions that applied to this individual?

(10) How were those entrants managed to ensure they applied by the rules relating to home quarantine rather than hotel quarantine?

(11) How many breaches of those conditions have been identified?

(12) In the past two months, what other categories of people coming into Tasmania have been permitted to use home quarantine?

(13) How are these other categories being managed to ensure compliance?

(14) How many breaches have been identified with respect to those categories since their arrival?

(15) How many fines have been applied as a result of those breaches?

(16) How many fines have been paid?

(17) Are any actions being taken to collect unpaid fines?

(18) Given the obvious shortcomings of the quarantine system in recent times, and understanding there is a current investigation underway, what other operational steps are now being taken, today, to ensure greater protection of the Tasmanian community from people entering the state with COVID-19?

Ms Rattray - The fire escapes have cameras on them, I believe.

ANSWER

I thank the member for his questions.

(1) The individual is a Tasmanian resident and was approved to return home to Tasmania and home quarantine in accordance with the class approval for Tasmanian residents pursuant to the Directions under the Emergency Management Act 2006.

(2) Vaccination was not a condition of entry for individuals applying to enter Tasmania at the time.

(3) COVID-19 testing was not a condition of entry for individuals applying to enter Tasmania at the time.

(4) The individual did not bypass hotel quarantine. At the time this individual travelled to Tasmania, he was travelling from a high-risk level 2 area of Victoria. Persons arriving from high risk level 2 areas are allowed to quarantine at suitable premises. The individual was also an unaccompanied minor who can be directed to quarantine at suitable premises approved by the Deputy State Controller.

(5) Tasmanians travelling from high risk level 2 areas are permitted to quarantine at home with other family members. This is consistent with Schedule 2 of the Emergency Management Directions in relation to persons arriving in Tasmania.

(6) Advice regarding quarantine is provided in the Good to Go response that the individual received. This individual was required to quarantine under Schedule 2, meaning they were required to quarantine themselves from physical contact with all persons, other than persons with whom they ordinarily reside, for 14 days.

(7) The individual and his guardian were advised that they would be required to isolate in a government case management facility for a minimum of 14 days.

Other family members and identified close contacts were advised they would be required to quarantine for 14 days. An assessment was completed on the suitability of the available quarantine premises and, where not suitable, contacts were transferred to a government quarantine facility. Those quarantining at suitable premises were advised they could not leave the premises, they could not have visitors, they would receive a daily phone call from Public Health, and they would receive a visit by police to check on their quarantine compliance.

(8) The individual is being dealt with under the provisions of the Youth Justice Act 1997.

(9) Yes.

(10) Compliance checks are undertaken by Tasmania Police, Tasmania Fire Service and State Emergency Service volunteers who conduct physical checks of premises and electronic checks through Whispir technology.

(11) Six.

(12) The following types of persons are approved to quarantine in suitable premises on arrival in Tasmania:

(a) All travellers from high risk level 2 who are subject to quarantine requirements must quarantine for 14 days in suitable premises.

(b) High risk level 1 travellers are required to quarantine in government-managed facilities.

(c) Since 24 September 2021, eligible Tasmanian residents from high risk level 1 areas may quarantine in an enhanced standard of suitable premises if they meet the eligibility criteria.

(13) Compliance checks are undertaken by Tasmania Police, Tasmania Fire Service and the State Emergency Service volunteers who conduct physical checks of premises and electronic checks through Whispir technology.

(14) Six, one caution and five infringement notices.

(15) Five fines.

(16) Information is unavailable at this time.

(17) Any unpaid fines would be dealt with via the usual process under the Monetary Penalties Enforcement Act 2005.

(18) Over 25 000 travellers to Tasmania have been quarantined in Tasmania in suitable premises and hotel quarantine. There have been very few breaches and no community transmission associated with Tasmania's quarantine program, indicating that the process has been effective and has kept Tasmanians safe. Tasmania's border and quarantine program is under continual review to ensure it remains responsive to

risks posed. The following are examples of changes to policies and process to ensure appropriate response to risk.

- Additional protective measures to mitigate COVID-19 importation risk from high risk level 1 in August 2021, including a new condition to provide evidence of having received a negative COVID-19 test 72 hours prior to travel commenced.

- Exclusion of transit through New South Wales from 'authorised transit' in recognition of risk, August 2021.

- A greater approvals process for essential travellers from high risk level 1 areas commenced in August 2021, including a requirement to quarantine in government-managed facilities when not at work for some categories.

- A rolling seven-day testing requirement for transport, freight and logistics workers travelling into Tasmania, regardless of their travel history, September 2021.

- In recognition of high waitlists to travel to Tasmania, an increased standard of home quarantine for eligible Tasmanian residents who were vaccinated and tested travelling from high risk level 1 locations was approved in September 2021.

Southern Outlet Fifth Lane

Mr WILLIE question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.42 p.m.]

Concerning the fifth lane on the Southern Outlet:

(1) Can the Government provide the modelling used for travel time improvements, including the number of car movements and how many people are assumed to have transferred from car to bus services under the proposed changes?

(2) Are the modest travel time improvements also seen when using the same assumptions with Macquarie Street as a clearway, but without a fifth lane on the Southern Outlet?

(3) Given that bus travel will still take two to three minutes longer than car travel, what strategies will be employed to get commuters to use buses instead of cars? Why have these strategies not been tried first?

(4) What other options were considered to reduce congestion prior to committing to the Southern Outlet fifth lane?

ANSWER

I thank the member for Elwick for his questions. A core principle of the Hobart City Deal is to provide people with choice around how they move into and around the city. Building a transit lane to improve access for public transport is a key aspect in achieving this. Importantly, the transit lane is not a single solution and along with the bus priority measures on Macquarie and Davey streets, the additional connecting lane between the Southern Outlet and Macquarie Street, the additional 70 express bus services and new park and ride facilities at Firthside and Huntingfield will all work together to provide an end-to-end solution for Kingborough commuters. Collectively these projects are called the Southern Projects.

As Hobart continues to grow, there will continue to be traffic congestion on the Southern Outlet during peak hours due to an increase in demand and the capacity restrictions at intersections. The objective of the City Deal - Southern Projects is to reduce the impacts of congestion and to provide more ability to meet the increase in demand. To do this we need to encourage the maximum number of people to travel in the minimum number of vehicles. This will encourage more efficient use of the road space we have.

The transport improvements proposed by the Southern Projects are geared towards making public transport an attractive mode of choice and establishing the levers, including the infrastructure, to encourage modal shift. This infrastructure also includes prioritising any additional road space for vehicles with the greatest person-carrying capacity, noting and agreeing that increasing road capacity for general traffic induces demand. The longer term plan is for the transit lane to extend all the way through from Kingston to Hobart.

A significant amount of traffic modelling informed the development and concept designs for the Southern Outlet transit lane project. This involved testing more than 50 different modelling scenarios to determine which scenario had the most positive impact on bus and T3 traffic as well as ensuring that general vehicle traffic was not penalised. The final modelling results for the concept design indicate both transit vehicles and general traffic are significantly advantaged more than the base case during the morning peak. Buses, three minutes or 30 per cent better off and general traffic, one and a half minutes or 15 per cent better off.

The time savings are magnified during congestion events which are increasing in frequency with higher traffic volumes, including twice in the morning peaks over the past five days. Any benefit from the transit lane would be magnified should there be an incident on the network, particularly between Olinda Grove and Ispahan Avenue. For example, if a vehicle was broken down at the Southern Outlet lights at Davey Street heading into the city a 20-to 30-minute additional travel time for general traffic would see an equal travel time saving of 20 to 30 minutes for those in the transit lane.

The time advantages will be supported by 70 additional new express bus services starting by early 2022 and further time benefits when the transit lane is extended from Olinda Grove back to Kingston as part of stage 2 of this project. The additional lane on the Southern Outlet will provide priority for vehicles with the greatest person-carrying capacity, buses and high-occupancy vehicles and importantly, get these vehicles to the front of the queue before they enter Macquarie Street. Modelling undertaken indicated this provides the greatest benefit which will be further enhanced when the transit lane is extended back to Kingston.

Clearways and removal of parking as proposed for Macquarie Street without the transit lane on the Southern Outlet will not benefit buses as they would get stuck in general traffic and therefore there would be less incentive for people to change their mode of transport and ultimately manage congestion. The Government acknowledges behavioural change is critical to managing congestion and population growth in the southern suburbs. One mechanism for this is working with local government to reduce parking capacity and to increase parking charges to better reflect the economic value and opportunity cost of a car space in the CBD.

Significant uptake in public transport is required and we are striving to put in place measures to make public transport an attractive alternative to the car and a mode of choice, including adding new bus services and providing park and ride/transit hub options. This project and others as part of Hobart City Deal are critical to achieve the objective of 10 per cent commuter passenger transport trips by 2030. We acknowledge these targets need to be greater to meet population growth in Greater Hobart, hence a range of projects and initiatives are being rolled out which prioritise and support modal shift for the journey to work.

A number of alternatives were considered to achieve the project objectives as follows:

(1) Widening on the south bound carriageway (cantilevering). This would have a greater impact on traffic during construction and there would still be impacts on properties on the uphill side of the Outlet. In addition, there are challenges with the embankment on the southbound side of the Outlet, south of Cats Eye Corner. The cost of construction would be significantly higher with this concept as it would require the construction of two significant retaining walls.

(2) Dynamic tidal flow (contraflow). This involves making an existing southbound lane able to carry northbound traffic at peak times from Davey Street to Olinda Grove without any other changes to the current lane configuration. This option was discounted early due to the southbound traffic then being reduced to a single lane, causing congestion behind very slow-moving heavy vehicles and flow-on effects into Davey Street and beyond.

    The existing wide shoulder on the southbound lanes of the Outlet from Davey Street stops south of Cats Eye Corner, so a breakdown past this point could potentially completely block the Outlet southbound stretching back down Davey Street to the Domain Highway, Brooker Highway and Tasman Bridge. In effect, gridlock.

    Ms Forrest - Up to the north-west coast by the sound of it.

Ms PALMER - Continuing the wide shoulder for approximately 500 metres further south would also require a substantial retaining wall on the bottom side of the Outlet.

(3) Tunnel to bypass Hobart CBD. A tunnel to bypass the city was explored and deemed unfeasible. To construct a tunnel costs in the order of $100 million per 100 metres or $1 million per metre. To bypass Cats Eye Corner a tunnel at least 3 kilometres long would be required, along with property acquisition, not to mention significant construction impacts.

(4) Bypass over the back of Tolmans Hill. This option was discounted due to the steepness of the terrain, the significant property acquisition and congestion impacts on South Hobart.

(5) Using Proctors Road. This option was discounted due to the steepness of the terrain, geotechnical issues and the need for major property acquisition.

The Tasmanian Government's commitment to a fifth lane on the Southern Outlet is not possible to achieve in the existing area of the highway referred to as Cats Eye Corner.

The Government, however, remains committed to delivering this project within the general corridor footprint and, given the clear shortcomings of other options above, it is not considering an alternative route. The department remains committed to working with individual property owners impacted by the alignment and understanding their individual circumstances to inform the detailed design of the transit lane. Work is happening right now to determine the best approach for the transit lane with the minimum impact on those property owners.

The Government agrees that an integrated solution is required to tackle growth and congestion and is planning and delivering measures across a broad range of projects, including the Southern Projects discussed here. The Government continues to investigate demand management options as well as transit, with an emphasis on moving more people with fewer vehicles, as well as the importance of improving the bus journey for commuters by making it more reliable, frequent and price-competitive.

RECOGNITION OF VISITORS

[2:53 p.m.]

Mr PRESIDENT - I welcome students from Grade 5 and 6 of the South George Town Primary School to join us in the Chamber today. At the moment, we have question time where members can ask questions of the Government and they expect some answers back and then we go on to orders of the day, which is our general business.

I understand that you have come down and you are going back in the one day which is quite an adventure. Your member in the Chamber is the member for Windermere who, if you have any issues at all with public transport or the education system, he is the man to go to. I am sure all members will join me welcoming you to the Legislative Council Chamber today.

Members - Hear, hear.

COVID-19 Density Restrictions in School Settings

Ms FORREST question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.53 p.m.]

My question relates to schools and they may be interested in the answer.

With regard to COVID-19 density restrictions in school settings:

(1) Are there currently any density limits for parents and visitors attending school assemblies, award presentations and events such as carnivals to enable all parents who wish to attend to do so?

(2) If so, are any changes to density limits to be made when the state reaches fully vaccinated rates of 70 per cent, 80 per cent and 90 per cent?

ANSWER

I thank the member for her question. At present, under Public Health Direction, Management of premises (No. 13), density limits do apply for parents and visitors attending school assemblies, award presentations and events such as carnivals. Where these activities are defined as day-to-day operations, including assemblies or end-of-year functions held on Department of Education sites, the number of parents and visitors who may attend is calculated by taking away the space students take up, then applying the two-metre square density rule to the remaining space to arrive at the total number permitted.

Where assemblies or end-of-year activities are held offsite at hired venues, the density rules of that venue must be applied, including students, in the total. For events such as carnivals that are open to the broader community, these need to be planned and managed in accordance with the state Government framework for COVID-19-safe events and activities in Tasmania. Density limits may apply based on the nature of the event, as detailed by the framework. Where visitor numbers are limited due to density requirements, schools and other sites may make decisions on attendance, prioritising their immediate school communities.

I thank in advance any community members who would previously have attended such activities for their understanding if density requirements prevent their attendance under current Public Health advice.

Question (2), decisions on density limits are made by Public Health. The Department of Education adheres to Public Health advice in regard to activities across all department sites.

Tasmanian Clay Target Association

Ms RATTRAY question to MINISTER for SPORT AND RECREATION, Ms HOWLETT

[2.57 p.m.]

Minister, given the Government's recent broad support for the sport which is conducted by the Tasmanian Clay Target Association (TCTA), has the minister met with the TCTA to discuss supporting the sport to broaden its participation, particularly with youth and females?

If not, when can the TCTA expect contact from you or your advisers to discuss government assistance?

ANSWER

I thank the member for her question and interest in this matter. I am advised that I have not received a recent request to meet with the Tasmanian Clay Target Association. However, I would be happy to meet with them to discuss supporting the sport and ways to increase participation with youth and females. I recently received a meeting request from the Sporting Shooters Association of Australia, the Tasmanian division. I had a constructive meeting with them to discuss a range of matters, including some of the challenges the sport faces.

Clay target clubs across Tasmania can apply for a range of grant programs offered by the Government to improve and build facilities, or to purchase new equipment in order for clubs to attract new members to the sport. The SSAAT received $250 000 in funding under the 2020-21 Improving the Playing Field Grants Program to upgrade their clubrooms and firing lines at the Riddell Range Complex. The Tasmanian Government, through the Department of Communities, the Tasmanian Division of Communities, Sport and Recreation provided support for the sport of shooters, with Shooting Australia recognised by Sport Australia, given it is an Olympic and Commonwealth sport.

Through election commitments and various grant programs, the Tasmanian Government has provided more than half a million dollars in support to shooting and gun clubs across Tasmania since 2014. As the Minister for Sport and Recreation, and the Minister for Women, I am committed to increasing the opportunities for females to participate in all sporting codes across our government. We have implemented a range of initiatives and grants programs to do this, such as the Levelling the Playing Field Grants Program.

Hip Replacement Waiting List

Ms ARMITAGE question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.59 p.m.]

Will the Deputy Leader please advise the current waiting list for hip replacement procedures for categories one, two and three at the Launceston General Hospital?

ANSWER

The 2021-22 Budget provides additional funding of $196.4 million over four years to deliver around 30 000 extra elective surgeries.

The Launceston General Hospital waitlist for hip replacement procedures count as at 22 October 2021:

Category 1 - Urgent, advisable to be seen within 30 days - 0 people.

Category 2 - Semi-urgent, advisable to be seen within 90 days - 25 people.

Category 3 - Non-urgent, advisable to be seen within 365 days - 135 people.

Waiting list count at 31 October 2020.

Category 1 - Urgent, advisable to be seen within 30 days - 0 people.

Category 2 - Semi-urgent, advisable to be seen within 90 days - 30 people.

Category 3 - Non-urgent, advisable to be seen within 365 days - 140 people.

Ms Armitage - If I could have a little more informationt. To be seen or to be operated on? There is a difference if someone comes with a hip replacement issue, and the answer was to be seen. I am just wondering if that is to be seen. Because I know at the hospital there is a wait to go on the waiting list. Is that to be seen, then to be put on the list for the surgery, or is that for the surgery to be performed?

Ms PALMER - This is the information I have been given in answer to your question but I am happy to seek clarification for you.

North Eastern Soldiers Memorial Hospital - James Scott Wing

Ms RATTRAY question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[3.02 p.m.]

Following up on a question I asked in November 2020 in regard to the James Scott Wing attached to the North Eastern Soldiers Memorial Hospital, the Leader at the time advised in answer to my question, that efforts of the Tasmanian Health Service were being focused on supporting the completion of the May Shaw redevelopment and the transition to the new premises when the building works were completed. Following that, the internal consultation would commence on the future use of the James Scott Wing building to identify organisational and site needs prior to external consultation.

My question is, now the relocation of residents to the new building premises is well and truly complete, can the Deputy Leader provide an update on any discussions including community consultation and input that has taken place around the future use of these significant buildings in Scottsdale? I am happy to have the answer tabled. Thank you.

ANSWER

I thank the member for her question.

A lease agreement is currently in place between May Shaw nursing home and the Department of Health, which includes use of the James Scott in the North Eastern Soldiers Memorial Hospital.

I am advised that this lease is due to expire in April 2022. At the completion of the lease agreement, the James Scott Wing will be used to accommodate Tasmanian Health Service staff who are currently delivering services to the local community from the medical practice building which is separate from the North Eastern Soldiers Memorial Hospital. This will allow these staff and services to be returned to the hospital.

This in turn will free up consulting rooms in the medical practice building which will allow Ochre Health to increase the number of doctors at the site and expand general practice services available to Scottsdale and the broader Dorset community.

This decision has been made after targeted consultation with key internal stakeholders including staff of the North Eastern Soldiers Memorial Hospital and key external stakeholders, including Ochre Health.

LEAVE OF ABSENCE

Member for Prosser - Ms Howlett

[3:04 p.m.]

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

> That the honourable member for Prosser, Ms Howlett, be granted leave of absence from the service of Council for the remainder of this day's sitting.

Motion agreed to.

TABLED PAPERS

Joint Parliamentary Standing Committee on Subordinate Legislation - Annual Report 2020-21

[3:05 p.m.]

Ms RATTRAY (McIntyre)(by leave) - I have the honour to present the Annual Report of the Joint Parliamentary Standing Committee on Subordinate Legislation for the 2020-21 period.

Report received.

Joint Parliamentary Standing Committee on Subordinate Legislation - Scrutiny of Notices - COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 - Report

Ms RATTRAY (McIntyre)(by leave) - I have the honour to present a report of the Joint Parliamentary Standing Committee on Subordinate Legislation in relation to the scrutiny of notice issued under section 20 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Guardianship and Administration Board); and scrutiny of notice issued under section 20 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (Resource Management and Planning Appeal Tribunal), Report 17.

Report received and printed.

MOTION

Deferral of Intervening Business - Alcohol and Drug Dependency Repeal Bill

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council)(by leave) - Mr President, my Alcohol and Drug Dependency Repeal Bill advisers are still going through the motion. They struggled to get hold of their police advisers so they are still going through that. We are nearly organised but, in the meantime, with the indulgence of the House, I move -

> That intervening business be deferred until after consideration of Orders of the Day No. 8, which is our Living Marine Miscellaneous Amendments (Digital Processes) Bill.

Motion agreed to.

LIVING MARINE MISCELLANEOUS AMENDMENTS (DIGITAL PROCESSES) BILL 2021 (No. 26)

Second Reading

[3.08 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

> That the bill be now read the second time.

The purpose of this bill is to amend the Living Marine Resources Management Act 1995 and the Fishing (Licence Ownership and Interest) Registration Act 2001 to enable the introduction of digital platforms and processes in the regulation of sea fisheries in Tasmania.

In 2016-17, initial funding was allocated to the development of a fisheries integrated licencing and management system to maximise efficiencies for fisheries management and quota monitoring. That led to an additional $5 million government commitment to develop and implement digital licencing and reporting tools for the Tasmanian commercial wild-capture fishing industry under the Fisheries Digital Transition Project.

Stage 1 of the project delivered the first iteration of an online platform for the making of licensing applications in March 2020. This bill is a fundamental aspect of the project as it will enable the rollout of full functionality in the licensing platform as well as a digital catch and effort reporting platform. These platforms will maximise efficiencies for the fishing industry, fisheries management and quota monitoring.

The bill enables paper-based processes to continue alongside the rollout of digital tools. This means that industry can elect to use either paper or digital platforms. Digital tools will make it significantly easier for industry to deal with the regulator and will streamline administration of the wild capture commercial fishing industry.

The bill enables digital licensing processes while retaining existing licensing criteria. It ensures that discretion and consideration, such as whether someone is a fit-and-proper-person to operate in the Tasmanian sea fishing industry, will continue to be assessed by a person. Factual criteria will be determined by an approved computer program where appropriate.

This bill will not change the current catch and effort reporting requirements for the commercial wild-capture fishing industry. It will just allow industry to comply with those requirements quickly and easily using digital tools. This bill will deliver on the Government's commitment to enable efficient and modern digital tools and technologies for the Tasmanian commercial fishing industry without increasing the regulatory or administrative burden. The bill introduces amendments that will allow licence holders and holders of abalone quota held under a deed of agreement to authorise licensing agents to carry out specific licensing transactions on their behalf.

This is consistent with a model established by the Commonwealth agency regulating commercial fishing, the Australian Fisheries Management Authority. This bill ensures that fishery officers have appropriate powers to require the production of information held on phones, tablets and other devices used to make application or submit required records. Evidentiary provisions have been amended to contemplate digital transactions and the use of digital devices. The bill inserts provisions into the Living Marine Resources Management Act 1995 and the Fishing (Licence Ownership and Interest) Registration Act of 2001 to ensure that documents can be given and received electronically.

It provides that specific registers can be kept and maintained digitally and that people can more easily access their own data stored in the registers. Importantly, the bill ensures that existing licence holders will be carried over and will not be required to reapply for their licences. This bill is an important first step in ensuring modern, efficient regulation of the industry. These amendments will be built on by the review of the Living Marine Resources Management Act announced in the 2020-21 Budget.

Mr President, I commend the bill to the Council.

[3.13 p.m.]

Mr DUIGAN (Windermere) - Being in the realm of fishing I think it is appropriate that I get up and say a few words in support of this bill. The Tasmanian Liberal Government is committed to improving Tasmania's world-class primary industries and natural resources and is reviewing legislation governing Tasmania's fisheries which is more than 25 years old. Not as old as some of the legislation we have looked at today but still getting a little long in the tooth.

This Government recognises the Tasmanian seafood industry sits at the heart of our community contributing more than $1.15 billion to the local economy annually, while creating almost 3000 full-time jobs and supporting 5500 indirect jobs. It is clear our seafood industry supports regional communities through fishing, processing, restaurants and tourism activities across the state. The sector has a clear unified demand-led and sustainable long-term strategy which is a result of significant investment across the state.

The Tasmanian seafood sector has also generated global demand and attracted some of the highest value for our premium produce which in turn is supporting our tourism and hospitality industries. Our seafood industry has contributed significantly to Tasmania's

reputation as a destination for fine gourmet experiences. As members who attended last night's oysters and wine event would no doubt agree - Mr President, I saw you there and many other members in the Chamber enjoying the fruits of the industry's labour.

I was particularly interested - and I do not know if anyone else tried the local native Angasi oysters. I think it was the first time I have ever had the opportunity to eat those and speak to the people who are developing some new and innovative techniques to culture that particular type of oyster, and again diversify the offerings that we provide here in Tasmania.

Ms Forrest - When you hear from the people who were doing that last night, about how many used to be off the coast in the region until it was completely destroyed in the 1800s by dredging, it makes you want to cry.

Mr DUIGAN - Yes, it is remarkable. They were saying that functionally the species is almost extinct, but hopefully we are bringing it back.

Mr Valentine - There are some at Dunalley.

Mr DUIGAN - Angasi?

Mr Valentine - There some at Dunalley, the flat ones.

Mr DUIGAN - Yes, that is good. It is interesting to note that all the stock that they are using are wild stock, so there are still some in the waterways. I thank the sector for the contribution they are making to Tasmania. I am absolutely delighted that the Tasmanian Government continues to support the industry, now and into the future. I acknowledge the important contribution the industry has made to the economy through job creation, and in 2020 in particular, through job retention. COVID-19 has had a substantial impact upon our seafood industry. It has obviously disrupted the global and local marketplace and prevented visitors from coming to our state. However, it has also put resilience and agility front and centre for all our seafood businesses.

The support of the Tasmanian and Australian governments has also assisted businesses and the broader Tasmanian seafood sector through these very challenging times. The Tasmanian Government has invested in a range of initiatives to improve fishing in Tasmania, including recreational fishing programs, licence fee waivers, digital transformation to reduce red tape, upskilling support and training for commercial fishers, seafood processor grants, developing emerging marine industries and COVID-19 relief grants and support.

The purpose of this bill is to amend the Living Marine Resources Management Act 1995 and the Fishing (Licence Ownership and Interest) Registration Act 2001 to enable the introduction of digital platforms and processes in the regulation of sea fisheries in Tasmania. In 2016-17 initial funding was allocated to the development of the fisheries integrated licensing and management system to maximise efficiencies for fisheries management. Prior to monitoring, the Government committed an additional $5 million to develop and implement digital licensing and reporting tools for the Tasmania commercial wild-capture fishing industry under the Fisheries Digital Transition Project.

Stage 1 of the project delivered the first iteration of an online platform for the making of licensing applications in March 2020. However, I guess the question is what does this mean

for the industry? The Government understands that Tasmania's hardworking fishers are time poor. That is why we are implementing a system that improves efficiencies, saves time and helps protect our state's sustainable marine resources long term. Importantly though, the bill provides options for fishers to still be able to use paper-based products.

It is an interesting thing. Fisheries reporting needs to be done very soon after the time of capture. I have personal experience of trying to fill in abalone log books out on a boat where everything is wet and your pen is much more likely to go through your paper than make an indelible mark. I was speaking to a commercial fishing friend who spends a lot of his time squid fishing, which is a very grubby business. You have to fill in your log book within 200 metres of the ramp when you come home. You will be covered in ink, you will be cold, your fingers do not work; it is a very challenging environment in which to write. It is also a challenging environment to use your phone or your tablet, but that is another -

Ms Forrest - I think I would be at risk of spewing all over the paper as well.

Mr DUIGAN - While it is great that I think we are moving to these newer, more efficient processes, a lot of our fishers have been doing what they have been doing for a long time and are pretty comfortable with the systems they use. I consider it is important that the log book system remains current and we are not foisting upon them something they would be not particularly interested in using.

The digital tools will make it significantly easier for industry to deal with the regulator and streamline administration of the wild-capture commercial fishing industry.

This bill enables digital licensing processes while retaining existing licensing criteria. It ensures discretionary considerations such as whether someone is a fit-and-proper-person to operate in the Tasmanian sea fishing industry, and will be continued to be assessed by a person. Factual criteria will be determined by an approved computer program where appropriate.

The bill will not change the current catch and effort reporting requirements for the commercial wild-capture fishing industry, it will just allow industry to comply with those requirements quickly and more easily using digital tools.

Mrs Hiscutt - I noticed the member for Windermere is perhaps an expert in this catch and effort. If you had to ask, what is effort when it comes to catch and effort?

Mr DUIGAN - Effort is the number of days, essentially, we spend fishing in order to catch the fish we catch.

This bill will deliver on the Government's commitment to enable efficient and modern digital tools and technologies for the Tasmania commercial fishing industry without increasing the regulatory or administrative burden. Most importantly, the bill will help the long-term sustainable management of our valuable marine resources while making the life of hardworking Tasmanian fishers easier.

The bill introduces amendments that will allow licence holders and holders of abalone quota held under a deed of agreement, to authorise licensing agents to carry out specific licensing transactions on their behalf. This is consistent with the model established by the

Commonwealth agency regulating commercial fishing, the Australian Fisheries Management Authority.

The bill also ensures fisheries officers - and this is important - have appropriate powers to require the production of information held on phones, tablets and other devices used to make applications or submit required records. This will improve efficiencies and ensure better protections for our marine resources.

Evidentiary provisions have been amended to contemplate digital transactions and the use of digital devices. The bill inserts provisions which will ensure documents can be given and received electronically. It provides that specific registers can be kept and maintained digitally and people can more easily access their own data which is stored in the register. Importantly, the bill ensures that existing licence holders will be carried over and will not be required to reapply for their licenses.

This bill will ensure existing licence holders and recreational fishers are deemed to be eligible to hold a fishing licence, unless their eligibility has been reviewed and revoked by the secretary. It will enable the approval of a computer program to be used to make electronic decisions on the grant renewal or variation of a license and the transfer of a license quota or other entitlement under the licence to another eligible person.

It will empower the Secretary of the Department of Primary Industries, Parks, Water and Environment to override an electronic decision if the approved computer program was not functioning correctly when the electronic decision was made. It will provide for clear roles for licensing agents appointed by holders of authorisation and holders of abalone quota under deed. It will devolve responsibility for approving or granting a broad range of applications from the minister to the secretary and enables the secretary to cancel or suspend a license in specific circumstances.

It will enable fisheries catch and effort reporting via an approved electronic recording system or via current paper-based log books. It will specify fisheries officers powers in relation to electronic documents and devices used for the purposes of the act and fisheries management plans. It will further combine the register of demerit points and the register of authorisation into one electronic register and ensures eligible persons may access their own data in that register. It will provide for electronic service and provision of documents, electronic signatures and electronic records of original entry for abalone quota units.

This bill is an important first step in ensuring modern, efficient regulation of the industry. These amendments will be built on by the review of the Living Marine Resources Management Act announced in the 2020-21 Budget. The Tasmanian Government is the strongest supporter of our seafood sector and this bill will help protect and promote the industry long-term.

RECOGNITION OF VISITORS

Mr PRESIDENT - Honourable members, I will welcome to the Chamber our second group from South George Town Primary School, Grades 5 and 6, who are touring through the Chamber. Your member is the member for Windermere who has just given a contribution on a bill that we are working through at the moment and it is an amendment bill to amend the Fishing (Licence Ownership and Interest) Registration Act and the Living Marine Resources

Management Act and it is entirely appropriate the member for Windermere speaks on this because he is regarded as a living marine resource himself.

[3.26 p.m.]

Ms FORREST (Murchison) - I am not sure how he feels about being called a resource. I rise to speak briefly on this bill. After what the member for Windermere said, there is not a lot left to be said other than he has spruiked the Government's position beautifully and basically read through the fact sheet also. That is okay. It is his right to do so.

I want to pick up on a couple of points he did raise in that contribution. I note this is providing digital and more modern ways of managing our fishery and those who exercise their rights within it. That includes the commercial and the recreational fishers. As one who holds a recreational fishing licence myself - even though I would spew on the boat, I might not from the riverbank - I do know this will enable me as a recreational fishing licence holder, assuming I am not being reviewed and revoked by the secretary, to have a digital licence I can have on my phone along with all the other things like your credit cards and COVID-19 vaccine certificate and all those things.

That will be helpful because who carries a wallet these days? Not me anyway because I want it all in there and if I lose that it is a bit tragic. Regardless, there are a couple of questions I have. To reiterate what the member for Windermere said, this bill will ensure that existing licence holders and recreational fishers are deemed to be eligible to hold a fishing licence, unless their eligibility has been reviewed and revoked by the secretary. This point needs some further explanation from the Leader if she can in her reply. It enables the approval of a computer program to be used to make electronic decisions on the grant, renewal or variation of a licence and the transfer of a licence quota or other entitlement under licence to another eligible person.

What we are allowing here is a computer program to make an assessment and we know how well that goes with robodebt. When you take the people out of processes, we have to be vigilant people are not going to be significantly disadvantaged. I know the hard work the fisher people do in the commercial area particularly. It is hard work out there. They go out down the west coast and places like that, it is hard work. You would not want a system that had a glitch in it and they suddenly found they were fishing without a licence or some other problem. It does bother me when we are allowing computers entirely to make decisions based on suitability, eligibility, fit-and-proper-person tests and those sort of mechanisms without some form of check and balance.

It does provide a power for the secretary of the department to override electronic decisions if an approved computer program is not functioning correctly when an electronic decision was made. I am interested in how that will happen. Is it when someone discovers they have been asked to produce their licence and it is out of date or was not renewed by the computer or some other factor? Once you take the people out of it, there has to be some mechanism for leniency, some leeway, some sort of mechanism to enable those people not to be disadvantaged by a computer glitch in those systems. How can that be challenged? It does bother me. We see all matter of challenges with things like the robodebt in the Commonwealth sector with social security payments and that sort of thing and I would hate to see Tasmanians disadvantaged with this.

It is a positive step. I am not saying it is not a positive step. It is. It will be very helpful and practical, particularly for some of the newer fishers who are much more digital savvy, not so much the ones the member for Windermere was referring to who prefer to use the old paper-based log book because that is what they have always done. Hopefully - and I would assume if they are going to have any future about this industry - they are going to have a lot of young fishers coming in who will be much more digital savvy. I worry when we take the people out of the process entirely.

I do note the first dot point in the fact sheet says the bill:

> Restructures general provisions of fisheries licensing to enable automatic licensing by a two-stage process. Stage 1 where eligibility to hold a fishing licence is determined by human-based decision making…

That is where the humans are.

> …and Stage 2 where decisions on licence related applications are able to be made by an approved computer program.

Once we are in stage 2 there need to be very good mechanisms there to ensure we do not have a stuff-up that we saw with robodebt.

[3.31 p.m.]

Mr VALENTINE (Hobart) - My word, we have been hearing a fair bit about technological innovation over the last couple of days. There is no question about it, the digital platforms can provide significant benefits and there is always a benefit if a system is designed properly and implemented effectively and we saw that yesterday.

Of course, with any system, it is garbage in, garbage out. So if the mechanisms that control the computer software or the databases behind it are effective then it will work. When you are building a system based on a well-established manual system there are things that can go wrong but there are probably less things that can go wrong than if you try putting in place an application that has been conceived on a faulty basis. I think robodebt is probably one of those.

I would have to say in my 38 years in the industry you need rigorous testing before you even go anywhere near implementing a system. I would hope that this system has had quite a level of testing, and it would because there is no way that the department would want to get into a situation where it simply was not looked at effectively and it did not tick all the boxes. An indication that it has been looked at carefully is the fact that it does have some fallbacks, that business continuity has been considered. That is always a good test of a system to know that.

Yes, it is all very well to have the modern electronics and the digital systems in place but if they fail, if the power goes out, will the system continue to operate if the base data collection mechanisms fail? Even though the main computer system is up, can business continuity still be assured?

I do believe there are rigorous processes in place in the state government for that sort of thing. I was involved with it for years and one would hope that this system will be no different.

However, that is not to say that there will not be holes in it but one hopes that it has been tested thoroughly. I support the bill. I support what it is trying to achieve and I wish them well as they implement this system. As I say, garbage in, garbage out, and how it is used, how the data is collected is also very important.

You can have the best system in the world but if the data is not accurate and the operators, the people who have to put in the information, if they are not savvy enough or they do not know how to enter the data properly, you can get some problems. I am sure they will have trials in place to make sure that happens. I wish them all the best with it. We can end up with some big benefits with a system like this, especially the fisheries inspectors.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - The member for Murchison's concerns, the computer makes a decision on factual information, not eligibility. Because the bill separates licensing criteria into two stages, the computer program is able to be developed so that eligible persons can use FishPort to conduct licence transactions, such as applying for licences, renewal of licences, transferring licences and entitlements to other eligible persons, varying licences and allowing other eligible persons to use the licence. The computer program will be developed so that only factual licensing criteria can be applied to approved transactions. If the computer program makes a mistake, or is not functioning correctly, for example, if there is an error in data entry or a virus, then the secretary is able to replace the decision. This provides a backup as a human can step in to make licensing decisions if required. The main crux of that is the computer makes a decision on factual information, not on eligibility. A human does that.

Ms Forrest - It is good that humans are still involved.

Mrs HISCUTT - Yes.

Mr Valentine - Then we will only get human error.

RECOGNITION OF VISITORS

Mr PRESIDENT - Honourable members, I would like to welcome another group from the South George Town Primary School, grades 5 and 6 group who are joining us. We are currently going through the second reading of a bill. We are possibly about to go into the Committee stage to consider the bill in detail. Every Tasmanian has an elected representative in the Legislative Council. Your member is the member for Windermere. He is the one to go to if you ever need any advice on fishing, or many other things. We are just doing a fishing-related piece of legislation.

Bill read the second time.

LIVING MARINE MISCELLANEOUS AMENDMENTS (DIGITAL PROCESSES) BILL 2021 (No. 26)

In Committee

Madam CHAIR - Before we get into this one, members, we will break up clauses 7 and 8 to give members a chance to raise particular issues. There is a lot of detail in those ones.

Part 1, clauses 1 and 2 agreed to.

Part 2, clauses 3 to 5 agreed to.

Clause 6 agreed to.

Clause 7, subclauses 76A and 76B agreed to.

Clause 7, subclauses 76C and 76D agreed to.

Clauses 7, subclauses 76E to 78 inclusive agreed to.

Clause 7 agreed to.

Clause 8, subclauses 81 and 82 agreed to

Clause 8, subclause 83 agreed to.

Clause 8 agreed to.

Clauses 9 to 12 agreed to.

Clause 13 agreed to.

Clause 14 agreed to.

Clause 15 to 18 agreed to.

Clause 19, subclauses 273A and 273B agreed to.

Clause 19, subclauses 273C and 273 D agreed to.

Clause 19 agreed to.

Clauses 20 to 23 agreed to.

Part 3, clauses 24 to 28 agreed to.

Part 4, clause 29 agreed to.

Bill reported without amendment.

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

That the third reading of the bill be made an order of the day for tomorrow.

Motion agreed to.

ALCOHOL AND DRUG DEPENDENCY REPEAL BILL 2021 (No. 40)

Second Reading

Continued from page 14.

[3.44 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Thank you, Mr President, I have finished the second reading contribution and I look forward to hearing anybody else who would like to contribute.

I commend the bill to the House.

Dr SEIDEL (Huon) - Mr President, this is going to be brief.

I will certainly support the bill. I want to signpost I will move one amendment, as discussed with the Leader.

Thank you very much for arranging the briefing on very short notice, including the remote input from Campbell Town. It all works and that is how it should be.

Ms FORREST (Murchison) - Mr President, this bill has been a long time coming. As the Leader outlined in her second reading speech, the Alcohol and Drug Dependency Act is over 50 years old and many of the provisions in it have not been used for a very long time and they are not contemporary to say the least.

I agree it is more appropriate that other mechanisms are used to support people who are dealing with drug and alcohol dependency problems. And so, it is time the Alcohol and Drug Dependency Act was repealed. And I know it has the full support of Alcohol, Tobacco and other Drugs Council. I appreciate there is a provision in the bill the member for Huon has referred to and relates to the insertion in the Road Safety (Alcohol and Drugs) Act 1970, which will be amended and was proposed to be amended to define alcohol dependency. The debate on that matter is best left to the Committee stage. Sometimes I wonder when the intent is just to repeal an act that if the Alcohol Tobacco and other Drugs Council told me they support the repeal, does that mean they also support this? I am not sure. To me, this is a bit like the repeal of the begging bill we did, where you are actually repealing a bill or a section of an act but then inserting something else, and it potentially seeks to demonise a certain category of people.

Mr Willie - That bill lapsed. We did not end up passing it into law.

Ms FORREST - They never dealt with it did they, downstairs?

Mr Willie - The election was called.

Ms FORREST - Begging is still on offence?

Ms Webb - It lapsed. So, begging is still an offence in this state.

Ms FORREST - It is sad. The point I am making is in a section of the principal act, and because I will be in the Chair I will make a comment on it now. That section 19 of the principal

act, which is the Road Safety (Alcohol and Drugs) Act, already requires the court in determining an order for special hardship provisions, to seek the advice of a court-approved medical practitioner in relation to this matter. And so, a court-approved medical practitioner will know what drug dependency is and how it should be defined and how to assess a person to understand whether they have an issue with alcohol or drug dependency. It only relates to alcohol dependency which is an issue in itself in some respects.

That is best left to the experts rather than in this place, trying to define for a court when they are getting advice from a suitably qualified and court-appointed medical practitioner. But, that is a matter for debate in the Committee stage, I accept that. But I want to express my support for the repeal of the Alcohol and Drug Dependency Act which is significantly out of date and not fit for purpose.

[3.48 p.m.]

Ms RATTRAY (McIntyre) - A relatively brief offering from my perspective. I support the principle of the repeal of the Alcohol and Drug Dependency Act. Fifty years is a long time to have something in place and of course it is not unexpected it is going to be out of date and not fit for purpose any longer.

I was ready to jump up before the briefing was called and I would like to thank the member for Huon for asking for that. I just looked at it and thought this is relatively straightforward. As we know in this place, often they are not relatively straightforward and this particular bill fits that bill quite well.

I will listen to the debate around the amendment and again thank the member for progressing that. It is certainly worth having the conversation about what that might mean putting in that amendment to the Road Safety (Alcohol and Drugs) Act of 1970, which in itself is quite an old act. We know it is not always easy to be able to bring every piece of legislation we have up to date with the protection of its intended purpose. I do support the principle of this and will be addressing my mind to the proposed amendment that the member has just distributed to our seats. I thank the Leader for facilitating the briefing. I will wait with interest to see what other members feel.

[3.50 p.m.]

Mr GAFFNEY (Mersey) - I am going to put on the record that it is interesting that 50 years ago the people like us in this Chamber and downstairs introduced the piece of legislation to this place that they thought was necessary for the time. It was to do the right thing by the community at the time. Whilst we are now 50 years down the track, it should not take away from the effort and the work that was undertaken in that place at that time.

Whilst now it is obvious to us that it needs to be repealed, that is fine. When we think of acts like the Boundary Fences Act is 1908, there are some acts that have been changed that are still relevant but through [inaudible] as time but then it gets to some pieces of legislation where this is not appropriate anymore. I am thinking that in 40- or 50-years time from now when we have passed pieces of legislation in this place, whether there will be another group in this House going, 'good try back then but it is now not fit for purpose'. Whilst it is being repealed, I would acknowledge the effort that has gone into this piece of legislation some years ago. Also, I thank the member for Huon for his work in picking up some of it. I am going to support it.

[3.52 p.m.]

Mr VALENTINE (Hobart) - Good observation by the member for Mersey. When we stand in this Chamber and make changes to bills we think that we are doing the absolute best for the community today. Times do change. Attitudes change. We all know that and this particular one with regard to what used to happen, how people could be detained against their will, it is contrary to basic human rights as the second reading speech says. It is right that we revisit it to make sure that those human rights are respected. It is as simple as that.

I thank the Leader for the briefings we received and the officers who gave those briefings. It is good to hear the reasoning behind why these bills happen. In 1968 I was 18. I was almost an adult because back then you had to be 21 to be an adult. That is a long time ago. Someone said 50 years and I thought, surely that cannot be right? But it is. It is 50 years since it was put into play but prior to that as we read in the second reading speech, the two acts that the 1968 bill replaced were 1885, the Inebriates Act and the Inebriate Hospitals Act 1892. It can go a lot longer than 50 years before something gets addressed properly. It is good to revisit old legislation and good to be able to see a different perspective put on it and human rights come to the fore.

Congratulations for picking it up.

[3.54 p.m.]

Ms WEBB (Nelson) - I also was pleased to see this bill come forward to repeal the Alcohol and Drug Dependency Act. I particularly welcome the lens of human rights through which that decision was taken. I am pleased that we would apply a human rights lens to all the policy decisions that we take in this state and certainly all our legislative decisions that we take. Would that we had an actual legislative instrument of some sort. A charter of human rights or a human rights act in this state would formalise that process for us and would bring us to a contemporary point to align with other states like Victoria, Queensland and ACT - as a territory they have that - and other international jurisdictions.

That sort of formality provides a wonderful accountability for any and every piece of legislation that would come through. In the absence of that, and in anticipation that one day we will have that, it is nice to see with bills like this one, that thinking at least has been applied to the reasoning behind doing it, so I welcome that.

While the law as it has sat there is underutilised - it has not been used for quite some time we are given to understand - having it sitting there provides the potential for what would have been quite a draconian application of constraint on citizens who have committed no crime and with very little evidence that it would lead to good health outcomes. In fact it precludes treatment, so it really becomes very much inappropriate detention.

When I was looking at the detail of the bill, noting questions which were able to be then put in our briefing - thank you for the briefing that was provided earlier - I picked up on things that other members had picked up on. The member for Huon is now bringing us an amendment to consider and I, too, in that same section, had question marks around the need for and the clarity of the phrasing that was used. I will be pleased for us to discuss that and the proposed amendment when we get to it in that stage of things.

I do note that some other states have dealt with this, not necessarily by removing a similar piece of legislation, but by adapting it to a more contemporary application. They are states that

are larger than we are and have different capacity, and from what I gather through the briefing, would have better provision of infrastructure and treatment options for short-term, well-defined opportunities for people to receive support through similar measures as this. We do not necessarily have those in this state. What we do have though, and it is clear, what we have and use now in circumstances where it is required, are our other legislative instruments like our Mental Health Act and our Guardianship and Administration Act. So we are able to accommodate the sorts of situations that this act may have dealt with previously through more appropriate instruments in that way.

I certainly support the repeal bill and will be interested to be part of the discussion about the amendment during the Committee stage.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Thank you very much, members. I think we might thank those who have contributed. We will see how we go through the Committee stage, thank you.

Bill read the second time.

ALCOHOL AND DRUG DEPENDENCY REPEAL BILL 2021 (No. 40)

In Committee

Part 1
Clauses 1 and 2 agreed to

Part 2
Clauses 3 and 4 agreed to.

Part 3
Clause 5 to 6 agreed to.

Part 3
Clause 7 agreed to.

Part 4
Clause 8 agreed to.

Part 4
Clause 9
Section 19 amended (Special hardship orders)

Dr SEIDEL - Madam Chair, I move -

That clause 9 be amended by
Leave out the whole of paragraph (b).

We are looking at the context, whenever we debate legislation and I appreciate that we are repealing legislation from 1968. I would hope in 50 years time when humans are reviewing

our legislation, not algorithms, we are going to make it as easy for them as possible. We create legislative certainty - that is why we have bills in the first place.

The point of my amendment really is to ensure we have legislative certainty and not ambiguity. Clause 9 specifically deals with special hardship orders. It is specifically written to allow a court to make an exemption. The court can take medical evidence into consideration. In layman's terms, if there is medical evidence that a client does not suffer from alcohol misuse or dependence disorder then a court might be satisfied and therefore grant an exemption. That is the whole point of this section in the legislation.

The question is, whether it is for legislation to define alcohol dependency. The whole point of this section is not to define; the whole point is to allow an exemption for a court, contextually with medical evidence contemporary at the time, to define whether we now have an existing alcohol dependency. Otherwise, there would be no reason at all for this section to be in this legislation because we could simply define alcohol dependency outright. It is not easy to define alcohol dependency. If we have a look at the Alcohol and Drug Dependency Act from 1968, the meaning of alcohol dependency - and I quote directly:

> For the purposes of this Act a person shall be regarded as suffering from alcohol dependency if he consumes alcohol to excess and -
>
> (a) is thereby dangerous at times to himself or others or incapable at times of managing himself or his affairs; or
>
> (b) Shows prodromal signs of becoming so dangerous or so incapable.

Ms Forrest - It is only men who have a problem?

Dr SEIDEL - Yes, only men. By definition, there was no alcoholic dependency women at the time.

Ms Webb - There still isn't, right?

Dr SEIDEL - The repeal act proposes a completely new definition of alcohol dependency. Again, I am reading this out:

> (2A) For the purposes of subsection (2), a reference to a person suffering from alcohol dependency is a reference to a person -
>
> (a) who has a tolerance to alcohol; and
>
> (b) who shows withdrawal symptoms when the person stops or reduces his or her consumption of alcohol; and
>
> (c) whose consumption of alcohol is such that -
>
> (i) the person poses a serious danger to the health or safety of the person or another person; or

(ii) the person's ability to care for himself or herself is seriously diminished.

This is a completely different definition compared to the 1968 act. It is not based on anything. That is why I asked in the briefing, what definition are we actually using here? We heard we probably do use something called the DSM, the Diagnostic and Statistical Manual, or ICD-10, the International Classification of Diseases, so there are various classifications that can be used.

But surprisingly enough, the definition proposed here is nowhere near the DSM-4 criteria, or the DSM-5 criteria. The DSM-4 criteria are completely different to the DSM-5 criteria., because, again, they were defined at different periods of time. I can assure members the DSM-6, 7, 8 and 9 criteria are going to be completely different again. Then we have to go back and potentially redefine it, if that is what we want.

Ms Forrest - It might be helpful if you explained to members what the DSM is. I know what it is, but others may not.

Dr SEIDEL - Sure. The DSM is the Diagnostic and Statistical Manual. It is an international defined classification of medical conditions as well. There is, of course, a difference between DSM-4 and DSM-5 criteria. The lead organisation doing that is the American Psychiatric Association. The fifth edition was in 2014.

There is a change between DSM-4 and DSM-5. DSM-4 described two distinct disorders - alcohol abuse and alcohol dependence, with specific criteria for each disorder. DSM-5 has now integrated this; we now have alcohol abuse and alcohol dependence as a single disorder called alcohol use disorder. It comes with mild, moderate and severe subsections. I would argue that this is completely irrelevant for the context. In this bill, we are allowing exemption. If a medical practitioner believes, based on contemporary medical evidence, justification criteria, medical technology, or medical tests that the person in question is not alcohol dependent, then we allow the judge to have discretion and to say, therefore there is no alcohol dependency.

That is why I do not believe it is necessary to redefine alcohol dependency as outlined in the original bill. I also do not believe it is necessary to specify DSM as proposed by the Government in a future amendment. We do not know whether we are going to have DSM in 50 years time, when the algorithm is going to review the bill again. Because we are not ruling in, we are ruling out, there is strictly no need to have a specific definition in this particular section. We are allowing an exemption. It is between a court-appointed judge, and it is between a medical practitioner who is acting, based on contemporary classifications and contemporary medical knowledge.

Mrs HISCUTT - As you know, the Government feels very uncomfortable about this and has proposed an alternative amendment which will require members to vote the member for Huon's amendment down.

Madam CHAIR - Has that been circulated yet, Leader?

Mrs HISCUTT - I might give the reasons why we need some definition in there so members have something to go on.

Madam CHAIR - You can talk in broad terms to your proposal. We are chasing up where that hard copy of the amendment is so everyone has it in front of them so they can reference it. If you can talk in broad terms without referring to your proposal until members have it in front of them, please.

Mrs HISCUTT - Now that members have it in front of them, the process is I will have to try and convince you we do need something there and vote against the member for Huon's amendment and then I will propose my amendment. In speaking to why we do need some definition there, advice from Department of Police, Fire and Emergency Management - it took a fair while to get hold of the appropriate adviser there - is to leave the definition of 'alcohol dependence' in section 19, Special hardship orders, of the Road Safety (Alcohol and Drugs) Act 1970, because it provides clarity to the court on when it may not make an order authorising the granting of a restricted driver licence and consistency in the provisions application. The definition of alcohol dependency as drafted in the amendment is simply a more contemporary version of the definition that already exists and has operated effectively to date to guide the courts' determinations on whether it is in the public interest to grant a restricted driver's licence. The courts have been using that.

It is necessary to include a definition, given the proposed repeal of the ADDA which currently forms the basis of the courts' understanding of the term 'alcohol dependency'. Not all medical practitioners will make the same decisions and without a definition, there is the potential for medical practitioners to make wildly divergent decisions about a person's alcohol use and the extent to which this presents a risk to public health and safety. The absence of a definition may also lead to inconsistent decisions about when a restricted driver licence ought or not to be issued.

It is important to note under the Vehicle and Traffic Act 1999 there may be other circumstances in which a person with a history of alcohol misuse may be refused a restricted driver's licence. For example, if the person has a history of alcohol traffic-related offences in that circumstance. The inclusion of a definition of alcohol dependency simply clarifies when a person's alcohol use is such that it would be contrary to the public interest to make an order authorising the granting of a restricted driver's licence. It does not prevent a determination of this kind where there are other concerns about a person's alcohol use. DPFEM does not support removing a definition that may have the consequences of allowing more people with patterns of alcohol abuse being permitted to drive.

At the moment members, I am asking you to vote down the member for Huon's amendment and then I will propose this new Government amendment in front of you which hopefully will be more acceptable to you all.

Ms WEBB - I would like to understand a bit more. My questions are not for the member for Huon in relation to his amendment. It is to do with the Leader's contribution about what the Government is asking us to do in terms of voting down and voting for the Government's alternative amendment.

Please clarify for me - what I heard you say then is the proposed definition that has been put in with the Government amendment is being put into the act for the purposes of ensuring medical practitioners do not make wildly divergent and abhorrent determinations about alcohol dependency. That is interesting because from my memory in the briefing we heard there would be a definition in the act in order to provide the courts with a definition. But it sounds like you

are saying the definition in the act is to provide guidance to medical practitioners who are required to be part of this process. There has to be meaningful advice provided as part of the process.

I would have thought a medical practitioner who is required to provide advice within this process would have been expected to be referring much more comprehensively to their own medical definitions from sources they have and their own practising in making diagnosis. We would expect them to do that competently, capably and consistently without the need for this act to have a fairly rudimentary definition in it. This act is not going to be the main thing that guides them and, therefore, stops them being wildly divergent in what they might come up with which seems to be an extraordinary proposition.

I am still not convinced this actually does need to be there. I do not think you have given us enough reason there needs to be a definition in there when we know there is going to be medical advice provided as part of the process.

I am still interested to hear more and to hear other people's thoughts.

Mrs HISCUTT - For clarity, the definition is there for both medical people and the courts. It is not just for one or the other; both of them need a definition on which to put their thoughts forward to make a valued decision.

Ms FORREST - Madam Deputy Chair, I want to speak specifically on this because it is a very important issue being debated here. I listened carefully to what the member for Huon said in prosecuting the case for his amendment which removes a definition. He referred to the Diagnostic and Statistical Manual and it is of mental disorders. It is the psychiatrists' bible that provides diagnostic guidance, imperfectly as it does.

As the member for Huon said, it is revised regularly and every time it is revised - not every year - it changes as new evidence and research and all those sorts of things become available.

As the member for Huon said, DSM-5 came out in 2013. I am not sure what year DSM-4 was published but it would have been a few years before.

Between DSM-4 and DSM-5 this particular issue was changed and clarified based on research, evidence, contemporary thinking and practice, to the point that the new term - 'severe alcohol use disorder' was included and is what the Leader is now inserting, which is her preference.

DSM-5 has three levels - mild, moderate and severe alcohol use disorder. When DSM-6 comes out it may be they think it is not an appropriate term and we will have to come back and amend this act.

When I go to section 19 of the principal act which we are amending, the Road Safety (Alcohol and Drugs) Act 1970, and read the clause as it would stand with the member for Huon's amendment in it, it would say:

> without prejudice the generality of the provisions of section 18 (5)(c) of the Vehicle and Traffic Act 1999 it shall be deemed to be contrary to the public

> interest to make an order authorizing the granting of a restricted driver licence to a person suffering from alcohol dependency and the court may refuse to make such an order in respect of a person who is disqualified from driving as a consequence of a conviction of an offence under this Act, section 41 of the Traffic Act 1925 or section 53 of the Vehicle and Traffic Act 1999 unless the court is satisfied on the evidence of a medical practitioner approved by the court that that person is not so suffering from alcohol dependency.

So, what it is saying, as the member for Huon is suggesting, it would take out the definition, and rely on the evidence of a medical practitioner who is approved by the court. One would imagine it would be a psychiatrist familiar with DSM as the Leader is suggesting here in her definition. So, they would make a determination and provide advice or evidence to the court, under oath - because that is what they are doing - they are providing evidence by a medical practitioner, approved by the court, that the person is not suffering.

So, I do not agree that the police would be concerned that such a doctor would not provide consistent advice because they are required under oath to give accurate advice and they would be referring to the DSM whatever volume it is that we are up to. Because that is what they would be required to do.

I cannot countenance what the Leader is suggesting as the option to address this. I do not think it is a suitable option. One, it will not be contemporary for long potentially. Two, I think the procedure already outlined is adequate to ensure that a medical practitioner approved by the court to give evidence in court regarding a person about whether they should be approved or granted a special hardship order, that the process will unfold exactly as you are suggesting through your amendment but in a contemporary manner.

I will be supporting the member for Huon's amendment and I will not be supporting the proposal by the Leader.

Mrs HISCUTT - For clarification, you are talking about edition 5. In my amendment there would be a part that says within the meaning of 'the edition' of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association, this is relevant at the time, the current edition of that manual. So, it does not matter whether it is manual 5, 6, 7, 10 or what, this amendment says that the current manual is the manual that they will have to reference. So, hopefully that will alleviate that particular concern.

The alternative approach will be to replace the definition of the alcohol dependency in the ADDA with the reference to alcohol use disorder, that is of a severe nature within the meaning of what I have just read out. In here my notes say the fifth edition but the fifth edition is the current one at the moment. The way it is drafted in the amendment when I present it, it means that the current one at the time, whether it is tomorrow, next year, two years, five years, it will be the current edition that they will be looking at.

The definition of 'severe alcohol use disorder' is the one most closely aligned to the definition that it is proposed to replace. We were hoping that this would address the members' concerns whilst retaining a definition in use by medical practitioners and the courts, bearing in mind that both need to have a look at this definition.

While the Department of Police, Fire and Emergency Management's preference is to retain the amendment as drafted, it is the alternative supportive of this varied approach that I will present when it is my turn.

I am urging members, as good natured as the good intention from the member for Huon, that it is not the appropriate one for the courts or the medical doctors to peruse at the time, and I urge you to vote that particular amendment down and have a close look at this one as a replacement.

Madam CHAIR - Before anyone else rises, if I could just remind members if the member for Huon's amendment gets up, then your amendment falls over because there is nowhere to put it. So you might need to reconsider that approach if you still wanted to pursue it, just so members are aware.

Dr SEIDEL - I am concerned about the widely divergent medical practitioners out there but to be frank, Leader, using the DSM-5 criteria is not going to make a bit of difference to them because DSM-5 is self-reported. It is a questionnaire. It is the person we suspect with the disorder, it is a questionnaire. I can read it out for you.

It is DSM-5 in the past year -

> Have you had times when you ended up drinking more or longer than you intended? More than once, wanted to cut down or stop drinking or tried to but couldn't.
> Spent a lot of time drinking or being sick or getting over the after effects.
> Wanted to drink so badly you couldn't think of anything else.

This is the new DSM-5 criteria.

> Found that drinking or being sick from drinking often interfered with taking care of your home or family or caused job troubles or school problems.
> Continue to drink even though it was causing trouble with your family or friends.
> Given up or cut back on activities that were important or interesting to you or gave you pleasure in order to drink.
> More than once gotten into a situation after drinking and increased your chance of getting hurt, such as driving, swimming, using machinery, walking in a dangerous area or having unsafe sex.
> Continue to drink even though it was making you feel depressed or anxious or adding to another health problem or after having had memory blackout.
> Had to drink much more than you once did to get the effect you want or found that your usual number of drinks had much less effect than before.

And finally -

> Found when the effects of alcohol were wearing off you had withdrawal symptoms such as trouble sleeping, shakiness, restlessness, nausea, sweating, a racing heart, or seizure or sensed things that were not there.

The classification goes into mild, moderate and severe, depending on how many symptoms has been self-reported.

It is the person with the disorder or presumed disorder, it is a separate questionnaire. Honourable member, I understand now what is actually missing, which is the doctor's objective assessment, blood tests, no liver function test, no gamma GT, no carbohydrate-deficient transferrin (CDT), no reading of records, no physical signs of alcohol dependency, no physical signs of alcohol abuse. It is not part of the psychiatric assessment. In order to be widely divergent, that is not appropriate. It is about the sensitivity and specificity of the diagnostic standards' criteria. They are okay-ish between 0.67 to 0.89 but if you then put on the prevalence of alcohol dependency in the population you are looking at positive predictive value, negative predictive value of those particular criteria for the specific population. We do not have the data for Tasmania. We do not have the data for Australia. We do not have the data for adults.

What I am saying is you are specifying in legislation a potentially non-sensitive, non-specific questionnaire and use that for exemptions under the law. It does not make sense. That is why currently when a person is going to go to court they go to see a medical practitioner and ask can you do blood tests? Did you ever do blood tests in the past? Is there anything that showed that I am not physically dependent or suffer from alcohol symptoms because there might be?

And the court has discretion to take this into account. The person might have been intoxicated at the time when they were booked or pulled over, fair enough, but there is a difference there between intoxicated at the time and being dependent. It is very clear. Again, being quite specific for this particular part of the legislation, it is about having exemptions there, to allow for exemptions, for the court to ask a medical practitioner, is there anything else that I need to know to grant potentially an exemption?

I urge members not to support the anticipated amendment coming from the Government because it is going to make things even worse.

Mr Gaffney - You are urging us to support your amendment and then that one will not count?

Dr SEIDEL - That is exactly right.

Mrs HISCUTT - I thank the member for that contribution. I am a little confused. We have here the DSM-5 diagnostic criteria for alcohol use disorder which is different from the questions you were reading out. We are of the opinion on the advice the Government has received that the doctor answers these questions while diagnosing somebody. It is not a self-diagnosis. Obviously, there is some advice wrong somewhere.

Dr Seidel - Can I call on this now?

Mrs HISCUTT - Whilst I am on my feet you might like to say something.

Dr Seidel - It is from the National Institute on Alcohol Abuse and Alcoholism, that is the NIAAA for my resource.

Mrs HISCUTT - We have one from the DSM which I presume is the Diagnostic Statistical Manual 5 which is the current one and up to date. Diagnosis criteria for alcohol use disorder and I can go through the questions if you like, members, they are similar but they are different. We were advised from another party, not one of my advisers here, that this is as a tool for the doctors to use when assessing a patient. Whilst I am on my feet -

Ms Webb - That means they ask the questions the member for Huon read out.

Mrs HISCUTT - It is not a self-diagnosis.

Ms Webb - The person self-reports to the doctor the answer to those questions, the doctor forms the diagnosis.

Mrs HISCUTT - I do not think the doctor would be answering these questions on what the doctor thinks of the person they are diagnosing. It is not a self-assessment form.

Dr Seidel - The doctor will ask.

Madam CHAIR - Order.

Mrs HISCUTT - Based on that I still think the courts and the medical services need some sort guidance on diagnosis and I really urge members to err on the side of caution and to not accept the member for Huon's amendment and to go with the Government's amendment when I put it forward.

Mr VALENTINE - When I look at the amendment brought forward I look over and I see a paragraph (c) also. It goes into whose consumption of alcohol is such that the person poses a serious danger et cetera. I am wondering what we are talking about, would not that be part of the assessment under this DSM? In other words I do not think either amendment goes far enough, to add some confusion to the circumstance. Someone might wish to comment on that. I think (c) should be included as well as (b).

Madam CHAIR - Just to clarify, we are only debating the member for Huon's amendment at the moment, that is the only question before the Chair at the moment.

Mr VALENTINE - That does not include taking out (c) does it? It does? You have questioned that. It is fine that has been clarified. Thank you.

Madam CHAIR - If I can just clarify. The amendment for the member for Huon is clause 9 of the bill, part (b) of clause 9 which includes 2A(a), (b), (c), (i) and (ii). It takes out everything that is under.

Mr Valentine - That is okay.

Madam CHAIR - It does remove all of it.

Mrs HISCUTT - Just for clarity on what we were discussing earlier, we have sent an email to the doctor that was on the phone this morning, our other adviser. The question that was asked was, how are the criteria that she sent through determined to exist, is it through a questionnaire? The answer came back, from overall clinical assessment of patient as well as specific questions.

Ms Webb - Which is what the member for Huon was describing.

Mrs HISCUTT - The member for Huon was indicating it was a self-assessment.

Madam CHAIR - It is part of it.

Mrs HISCUTT - I still think the Government has taken advice and I will not read it in again. The courts and the medical practitioners would prefer and do want and require and do use an assessment. I hope you will not vote for the member for Huon's amendment and consider the Government's amendment when I put it forward.

Ms RATTRAY - I am somewhat confused. It was somewhat difficult with the briefing with your adviser being in Campbell Town sounding like she was under water somewhere this morning, so we are passing a phone around. I am interested whether members feel like we need to hear from the police, who are saying they want this, and your adviser. Then everyone could be together and the good doctor, the member for Huon, could also be there and we could all listen. I am not sure what to do here. I really do not feel like I am adequately informed either way. I am not saying I do not trust the member for Huon. I also do not want to say that about the Leader. I am interested in whether members think that if it is 50 years old, is it going to make a difference if it is another two weeks older than 50 years? I am interested in what others might think.

Mrs HISCUTT - Without canvassing what others may think, I do believe your suggestion is excellent.

Madam CHAIR - There is a question before the Chair that the amendment be agreed to. We have to dispose of that question first.

Mrs HISCUTT - Can the member withdraw?

Madam CHAIR - He can if he wishes to do so.

Mrs HISCUTT - May I suggest, in light of what is going on and one of our advisers on the phone, that perhaps we could regroup at a later time if the member for Huon is of the mind to withdraw his amendment at this stage and re-present it when we come again.

Madam CHAIR - In terms of procedure, it is most unusual we would proceed in this way to have amendments withdrawn, to go back to another briefing.

Ms Rattray - I did not mean today.

Madam CHAIR - No. When I reviewed some time ago, it is not a good practice. If the member for Huon wishes to withdraw his amendment, that is entirely his call. You can then report progress and come back at another time. But it is not good practice to be doing it this way. These sort of things really should be sorted out before. It is unfortunate we did not have the other amendment before we restarted this debate, to actually give members time to think whether we needed a briefing before we started this section of the debate, which is the way it should happen. I hope members take those points because it makes it very difficult for all members, including those who have a question before the Chair on foot at the moment.

If the member for Huon wishes to speak, or any other member might wish to speak before the member for Huon makes a decision on this, they are welcome to make a point.

Mr GAFFNEY - I do appreciate what you have just said. I understand that. But then we have to look at encouraging the member for Huon to withdraw, then we should report progress. I take on board the member for McIntyre. I would even suggest that perhaps in that two-week break the member for Huon meet with appropriate members down here, which would circumvent the discussion we might have and come to an arrangement. Then he may come back and say I still stand by what I said, or he would come up with an amendment which would satisfy both parties to come back here to make certain this legislation is robust. We do not want to pass anything here if it has not been done the best way. I am not comfortable to pass something I am still not sure about. I agree with the member for McIntyre, I implore the member for Huon to withdraw and report progress so it can be sorted more efficiently for the next time we sit.

Mr WILLIE - Without reflecting on the Chair, and there may be some commitment from the Government here, what is stopping the Government going down this path every time there is a difficult question before the Chair? That is my concern. We have a difficult amendment the Government does not agree with, then you are asking members to withdraw their amendment, so you can provide more information you could have done prior to the debate. I would not like to see this continue as a strategy of the Government.

Ms Rattray - I do not think it is a strategy.

Mr WILLIE - No, it is not a strategy but it is -

Ms Rattray - The Leader can speak for herself.

Mr WILLIE - not something we want to get into the habit of, I would have thought.

Mrs HISCUTT - It is certainly not a strategy and I do not want to put that across like that. There is a bit of difference in opinions that needs to be clarified between the medical fraternity. We do not have our correct advisers here, as you know, one was on the phone. We thought it would be a fairly straightforward amendment bill because it has been around for two years. It is unexpected to have a doctor in the House, so to speak, who sees it differently.

Mr Willie - He is very qualified to see it differently.

Mrs HISCUTT - He is very qualified. However -

Madam CHAIR - It is not just the doctor in the House who is concerned.

Mrs HISCUTT - Some of our advisers were also well qualified. I do feel it is something that needs clarifying before we move forward with this bill. I am disappointed you think that is a tactic because it is not.

Mr Willie - No, I am saying I would not like to see it continue as a strategy.

Mrs HISCUTT - It will not.

Dr SEIDEL - It happened before to come up with definitions - about it not being self-reported, the member for Huon said that, it is a doctor who does that, it is quite a tricky thing. By definition, it is a self-reported thing. You are asking the patient a question and the patient is giving you an answer and that is then the criteria. Based on the questions, as I outlined, whoever has two or three or four positive answers -

Mrs Hiscutt - We had a different set of questions, too.

Dr SEIDEL - Again, I would encourage you to then organise briefings in good time with the appropriate advisers to be present, so questions can be asked in time. It is the second time in two days that has happened. It is awkward isn't it? Realistically, I proposed the amendment, the Government decided to put a different one and just define it in a different way. We need to have some form of definition. I am asking now, were the experts you are going to consult with now consulted before you proposed the legislation in the first place?

Who decided on the definitions as they are present in the repeal bill? Why not use DSM-4 or DSM-5 in conjunction with the physical exam? What type of physical exam? What type of blood test do you want? It is completely unclear. Why? Because they are not necessary, according to the DSM criteria.

I withdraw the amendment, but this is not the way. This is the simplest of legislation you can table here.

Dr SEIDEL (Huon) - Madam Chair, I seek leave -

To withdraw the proposed amendment to clause 9.

Leave granted.

Mrs HISCUTT - Madam Chair, I do humbly apologise for this. The bill has been there for two years and obviously, it appeared to be a very simple bill. I do apologise for not having the right advisers here today. I do hope it does not happen again. It is certainly not the intention of the Government to be doing that.

Dr Seidel - For you, Madam Chair, I hope we bring the bill back before 3 December.

[4.44 p.m.]

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

That progress be reported.

Progress reported; Committee to sit again.

SITTING DATES

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

That at its rising the Council adjourn until 9.30 a.m. Friday 29 October 2021.

Motion agreed to.

ADJOURNMENT

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

That the Council does now adjourn.

Motion agreed to.

The Council adjourned at 4.45 p.m.