PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 28 October 2020

REVISED EDITION

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

STATEMENT BY PRESIDENT

COVID-19 - Precautions - Legislative Council

Mr PRESIDENT - Honourable members, before calling on Orders of the Day, I remind you that we have attempted, as best we can, to resume normal seating arrangements in this Chamber. Although these arrangements have brought us all a little closer together, we will manage our proximity by ensuring we take time out from the Chamber.

I ask members to take regular breaks - work these out with your colleagues next to you so that when you take time out, it is all fair. As well as managing that, remember to do few other things -

- Regularly wipe down surfaces such as the lectern or the area around your seat - antibacterial wipes are available.

- If you have any coughs or cold symptoms, please manage them as hygienically as you are able - there are boxes of tissues around the Chamber.

- If you are not feeling well at all, please leave the Chamber. If it gets worse, please have a COVID-19 test to protect fellow members, office and the community. Now we are into a new stage with the borders opening, it is important we maintain good hygiene and social distancing practices.

Hand sanitiser is available, so please use it as often as you can. Please feel free to remind any other member to use sanitiser and wipe surfaces down to ensure that these standards are met.

Ms Forrest - We recommend people get tested at the onset of any symptoms. Do not wait for it to get bad.

Mr PRESIDENT - Yes. Members, if you are feeling slightly off, get tested.

MOTION

Government Businesses Scrutiny Committees - Establishment

[11.06 a.m.]

Motion by **Mrs Hiscutt** agreed to -

> That two Government Businesses Scrutiny Committees be established to inquire into government businesses in accordance with the schedule detailed below and rules as set out in the Standing Orders at Part 22.

That the committees have leave to sit on Monday, 14 December and Tuesday, 15 December 2020 between the hours of 9.00 a.m. and 5.00 p.m., or such other time as varied by the Chair and as necessary for the purpose of relevant stakeholder and deliberative meetings.

For 2020 government businesses are allocated to the committees as follows -

Committee A

Monday, 14 December 2020	Motor Accidents Insurance Board, Tasmanian Public Finance Corporation, Aurora Energy Pty Ltd and TasWater.

Committee B

Tuesday, 15 December 2020	Port Arthur Historic Site Management Authority, Tasracing Pty Ltd, Tasmanian Railway Pty Ltd and Metro Tasmania Pty Ltd

And that -

Ms Forrest, Mr Gaffney, Ms Lovell, Dr Seidel, Mr Valentine and Ms Webb

be of Committee A

and

Ms Armitage, Mr Dean, Ms Palmer, Ms Rattray, Ms Siejka, and Mr Willie

be of Committee B.

And that the committees report on the government businesses by no later than 23 December 2020.

If the Legislative Council is not sitting when the Government Businesses Scrutiny Committees complete their reports, those reports may be presented to the President or, if the President is unable to act, to the Deputy President or other office holder and in that event -

(a) the reports shall be deemed to have been presented to the Council;

(b) the publication of the reports is authorised by this Resolution;

(c) the President, Deputy President or other office holder, as the case may be, may give directions for the printing and circulation of the reports; and

(d) the President, Deputy President or other office holder, as the case may be, shall direct the Clerk to lay the reports upon the Table at the next sitting of the Council.

EVIDENCE (CHILDREN AND SPECIAL WITNESSES) AMENDMENT BILL 2020 (No. 31)

JUSTICE MISCELLANEOUS (COURT BACKLOG AND RELATED MATTERS) BILL 2020 (No. 35)

ON-DEMAND PASSENGER TRANSPORT SERVICES INDUSTRY (MISCELLANEOUS AMENDMENTS) BILL 2020 (No. 34)

NEIGHBOURHOOD DISPUTES ABOUT PLANTS AMENDMENT BILL 2019 (No. 35)

Third Reading

Bills read the third time.

RESIDENTIAL TENANCY AMENDMENT (COVID-19) BILL 2020 (No. 37)

Second Reading

[11.08 a.m.]

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

That the bill be now read the second time.

This bill amends the Residential Tenancy Act 1997. It provides for amendments to that act to diminish the effect of the COVID-19 pandemic on landlords and tenants. It incorporates issues that have been identified since amendments were made to the act by the first COVID-19 Disease Emergency (Miscellaneous Provisions) Act in March 2020.

On 4 September 2020, the Minister for Building and Construction announced that the Tasmanian Government would extend the emergency period under the Residential Tenancy Act until 1 December 2020.

At the same time, the minister announced that the Tasmanian Government would bring legislation to the parliament to introduce repayment plans for the tenants in rent arrears at the end of the emergency period.

This bill acquits that commitment and makes further changes to the Residential Tenancy Act to -

- enable the minister to declare a subsequent emergency period, should it be required; and

- allow general repairs to be undertaken during a subsequent emergency period, should it be safe to do so.

Before I turn to the specific provisions of the bill, I would like to outline the protections and support that have been put in place for tenants and landlords during the COVID-19 pandemic.

Tasmania was the first state to put in place protections for tenants as a result of COVID-19. These protections included -

- preventing tenants in rent arrears from being evicted;

- allowing tenants and landlords to negotiate reductions in rent; and

- allowing tenants and landlords to apply to the Residential Tenancy Commissioner to break a lease where its continuation would cause severe hardship.

Further protections were subsequently introduced by notice. These protections prevent rent increases and further restrict evictions.

The Tasmanian Government has also provided financial support to tenants and landlords. This financial support is the most generous of any state or territory in the country, and it includes -

- the COVID-19 Rent Relief Fund, which provides up to four weeks rent, to a maximum of $2000, to support rent reductions for tenants experiencing rental stress as a result of COVID-19. On 4 September, the minister announced that tenants could apply for a second payment from this fund, bringing the maximum support available of $4000 per tenant; and

- the COVID-19 Landlord Support Fund, which provides up to $2000 to landlords who have tenants in rent arrears as a result of non-payment of rent.

These protections and support have been significant. They have enabled Tasmanian tenants to stay in their homes, particularly when the health aspects of the COVID-19 pandemic were most acute. I acknowledge the efforts of tenants, landlords, property agents and the Office of the Residential Tenancy Commissioner, all of whom have worked together during this period to support these outcomes.

The purpose of this bill is to make amendments to the act to support tenants in rent arrears at the end of the emergency period, and to futureproof the act in the event that COVID-19 returns to Tasmania.

I now turn to the specific provisions of this bill.

Rent arrears payment orders

The first matter I would like to draw members' attention to is the rent arrears payment orders, included in clause 6 and clause 9 of the bill.

These provisions allow for tenants in rent arrears, because of COVID-19, to be able to apply to the Residential Tenancy Commissioner for a 'rent arrears payment order'.

On receipt of an application for a rent arrears payment order, the bill requires the Residential Tenancy Commissioner to notify the owner of the property as soon as practicable.

The bill also provides for the Residential Tenancy Commissioner to make a rent arrears payment order. To make a rent arrears payment order, the Residential Tenancy Commissioner must be satisfied that the tenant -

- is in arrears for rent that was payable during the emergency period;
- has experienced financial hardship as a result of the economic effects of COVID-19; and
- has the financial capacity to comply with the order.

Making an order will mean the tenant is obliged to pay the rent they owe according to the terms, conditions and duration of the order. The landlord is advised of the tenant's application for an order, and once an order is made, both parties receive a copy of it, so each party clearly knows their obligations.

Making this order will then protect tenants against eviction for unpaid rent if the rent referred to in a notice to vacate is related to rent in the commissioner's order. However, tenants who do not comply with the conditions of an order, will lose this protection against eviction for unpaid rent.

Appeal rights are provided regarding the commissioner's decision to either grant or refuse an order.

Declaring a subsequent emergency period

The second matter I would like to draw the House's attention to is the ability to reinstate the emergency protection provisions that were incorporated into the act in March this year, should they be required.

Therefore clauses 4 and 5 introduce the concept of a 'subsequent COVID-19 emergency period'. If certain conditions are evident, the minister, by issuing an order, may declare a subsequent emergency period, which will reinstate the COVID-19 protections for vulnerable tenants.

The conditions when it may be reasonably necessary to declare this extended emergency period are to mitigate any significant, widespread hardships caused, or likely to be caused, to a significant number of tenants by the effects of COVID-19, and the risk of its spread.

If an order is made declaring this period, the current emergency protections for tenants in the act would be reinstituted.

These protections include a ban on a landlord enforcing a notice to a tenant to vacate premises for unpaid rent (as found in clauses 8 and 9), and the restrictions in section 56 of the act on a landlord's right of entry to premises (as found in clause 10).

Performing or inspecting general repairs

Clause 7 of the bill modifies the rights of parties regarding the performance of general repairs to rented premises. This is distinct from a landlord's right to carry out emergency or urgent repairs.

Section 32 of the act provides that tenants are obliged to maintain the premises and to allow the landlord to inspect and repair work performed. However, to enforce physical distancing for public health reasons, the tenant protection powers inserted in the act in March 2020 restricted landlords' access to premises. As a consequence, section 32 ceased to apply to all during the declared emergency period.

An unforeseen effect of that amendment was that most general repairs required by the tenant, or are necessary to protect the landlord's investment, may not be carried out during the emergency period, even though the initial strict physical distancing restrictions have now been relaxed.

The amendment overcomes this problem by allowing the Residential Tenancy Commissioner to decide, by publishing a notice in the *Gazette*, whether the prohibition in the act on performing or inspecting general repairs will be 'ended early'. This is similar to powers the Residential Tenancy Commissioner has, and has used, for property inspections which, as a result of a notice by the Residential Tenancy Commissioner, resumed on 1 July 2020.

If that notice is made, section 32 will then apply again and operate normally, even though the declared COVID-19 emergency period has not been ended. This would allow general repairs to be performed or checked, with a prior notice to a tenant of any intended entry for inspection of repairs.

Mr President, we have kept Tasmanians safe and secure during the COVID-19 pandemic, and are well prepared for the challenges of the future.

The Tasmanian Government recognises the daily challenges faced by landlords and tenants during this time of financial hardship, and we have monitored these throughout the emergency period to date.

By supporting Tasmanians who rent or own rental properties, this bill will ensure tenants and landlords have suitable protections, in addition to offering a path forward, coming out of the COVID-19 emergency period, without the need for court proceedings.

I commend the bill to the Council.

[11.18 a.m.]

Ms ARMITAGE (Launceston) - Mr President, this bill is the product of a very unusual set of circumstances throughout the COVID-19 pandemic during 2020.

From the Government's second reading speech, I understand the bill has three main purposes - establishing the system for rent arrears and payment orders; providing for circumstances in which a subsequent emergency period can be declared; and performing inspections and general repairs. I will address each of these purposes in turn.

The rent arrears payment order provisions contained in this bill have the twofold effect of protecting landlords by ensuring that rent in arrears is formally repayable and protecting renters by prohibiting eviction during the period in which the order is in place, as long as the tenant is complying with it.

In assessing whether to issue a rent arrears payment order, the commissioner must be satisfied that rent arrears exist; that the tenant has experienced financial hardship by way of a reduction of hours, interruption to work and loss of employment; and, finally, that the commissioner considers the tenant's capacity to repay.

These are all fair and reasonable factors to take into account, particularly in the very lean rental market which is becoming increasingly common throughout the entire state. It makes sense to prioritise stability in the rental market by preventing eviction of tenants when a rent arrears payment order is in place to avoid flooding the demand side of the rental market with an unknown quantity of newly evicted and distressed renters.

Of course, I completely understand the concern and frustration of landlords and property managers during the time of COVID-19, and I know of the lengths to which many have gone to accommodate fairly the needs of renters in distress.

Many of us understand that landlords have experienced similar distress, with the added worries of being unable to inspect or repair the premises they rent out, which I will address further in a moment.

The creation of the rent arrears payment order system will generate some much-needed confidence, provide stability, set expectations and allocate risk fairly between landlord and tenant. The closer we get to more steady and typical circumstances, the quicker our property market and overall economy can start to recover.

I have a constituent who is under 35 years old, a part-time student who worked hard to own a rental property, but was owed several thousand dollars with the tenant leaving mid-lease and, I am told, is ineligible for any federal or state Government assistance. Unfortunately, some people play the system and in this case the previous renter came out unscathed financially and many thousands of dollars better off with the property owner using their landlord insurance to cover the unpaid rent.

Another constituent has had no rent since March. In this case, updating the period that tenants cannot be evicted is a nightmare for them. To use their words, these are 'government-supported squatters'.

The ability for a subsequent COVID-19 emergency period to be declared is a further protection for our housing market and those who participate in it. Clauses 4 and 5 of the bill which set out the circumstances in which such a period can be declared, state that the purpose is to reasonably mitigate any significant widespread hardship that is caused or likely to be caused to a significant number of tenants by taking into account the presence of the state of the disease and the risk of its spread.

I wonder what interplay there will be between the Director of Health, understanding how significant the powers granted to the director are during medical emergency periods, and the minister in making a declaration of the sort. What kind of threshold would need to be met regarding the presence of COVID-19 and the risk of its spread?

I ask these questions because I am sure it will help landlords and tenants alike to get a sense of the likelihood of the quite stringent conditions that an emergency declaration has on renting, remembering that confidence and stability in the housing market are integral to its proper functioning and to the economy recovering. If we can get a further understanding of the circumstances under which a minister might make a declaration of this sort, that might be helpful.

Finally, provisions contained in the bill regarding performance of inspections and general repairs are vitally integral and I am pleased to see their inclusion. As I mentioned earlier, I can understand the distress that being unable to undertake inspections and non-urgent repairs in the previous months caused landlords. For many mum-and-dad landlords whose precious asset is a rental home, being able to properly take care of it and ensure that the tenant to whom it is entrusted is properly looked after, enabling section 32 of the Residential Tenancy Act to upgrade as usual, even during emergency periods, will do much to allay the worries landlords have experienced recently regarding the integrity of their assets.

It should go without saying that the protections for tenants in this section mean that the proper notice should be given to them before such entry to the property takes place.

Mr President, the bill provides fair and reasonable protections for landlords and tenants as far as the circumstances surrounding COVID-19 and its effect on rental properties are concerned. A number of issues, both foreseen and unforeseen, have arisen for tenants and landlords since the emergency periods were declared earlier this year.

With enough worry caused by the virus itself, having a clear way to allocate risks and responsibilities between tenants and landlords, and provide protections in terms of rent payments in arrears and from tenant eviction will bring stability and confidence to the market which is going to be integral as we move forward.

[11.23 a.m.]

Ms RATTRAY - Mr President, I acknowledge that the disease emergency period identified in March certainly prompted the initial aspects of residential tenancy requirements. As we were told this morning, this has already been extended twice since March and the current protections will be there until 1 December, hence the need for something to provide the security and confidence the member for Launceston talked about post-December this year.

Through the Subordinate Legislation Committee we looked at a number of the residential tenancy notices issued under the COVID-19 disease emergency act and we had a briefing as

well. They have always been very helpful and I particularly thank Peter Graham and his team who have been exceptional in their delivery of the information to members. I agree that happened again this morning. When the questions are asked, the answers are provided and that is what we have briefings for, and they are very useful, so thank you.

I know the member for Windermere might talk a little more about the numbers - he possibly wrote them down - but I gathered that about 1570 payments had been made to landlords. Just a few of those were made directly to tenants when landlords were not keen to enter into the process. We were also told that generally there was a very good take-up by landlords and tenants throughout this whole process and it worked quite well.

There will always be some issues. We know that. Nothing is perfect and I expect there were times when Mr Graham's office had to do some significant mediation, and it will probably continue to have to do that post-1 December when this comes into place.

We were told the total funds were about $1.5 million. It was a significant contribution by the Government on behalf of the people of Tasmania to support the rental market, residential tenancies and the owners. The member for Launceston noted they were mostly mum-and-dad owners and very precious properties. She is absolute right. That is what you mostly hear. Someone has been bold enough to make a second purchase outside their home or have upgraded and still kept the home they had and have used it as a rental property. They have a significant investment. We need to always remember that it is not just about looking after the tenants, it is also looking after the landlords because without those properties, we will have more of a shortage and a greater impact on those who are looking. If people get fed up with having bad experiences, they put the properties on the market and they do not necessarily go back into the rental market.

Ms Armitage - The member for McIntyre will recall when we were doing the short stay inquiry - not so much during COVID now - so many people got tired of the long-term rental market, they took their properties off and found it so much easier to have tenants only staying for a week or a fortnight.

Ms RATTRAY - We certainly found quite a bit of evidence right around the state, not just in the city areas. We were finding it on the east coast, the north-east and the north-west; we were finding it everywhere. People decided that without good tenants, tenants who take their responsibilities to the highest level, they tired and decided to put properties into the short stay market. Of course, prior to COVID, that was a fairly lucrative thing to do.

Obviously, when COVID hit we found properties coming back into the rental market but they were only for a short time, say three months or six months. The member for Nelson will probably talk about that. That is not terribly helpful for people. You no sooner get settled in and you are out again often. It has been a difficult time for everyone.

I again want to congratulate the Government for this initiative. We also heard that amount of support provided to Tasmanians under this residential tenancy arrangement was the best in the country. It was at the highest level in the country. A tick for Tassie for looking out for those people who needed our support.

We also heard that rent arrears payment orders can be made - a payment plan if you like. We all know what a payment plan is. Somebody assesses your eligibility to be able to meet a

payment plan and that is put in place. I asked whether landlords had to agree to that. No, they did not. They are notified once a payment plan is in place. There is an appeal process and we heard this morning that even though you would like to think that some of them might be resolved in two or three months, that is not always the case. Given that the court system has had its own challenges through COVID, it was able to do some teleconferencing, but, Mr President, it is still a challenge for our court system.

We had the court backlog bill only a week or so ago, and we had the numbers but it is still a challenge for anyone. We also heard there were about 50 that applied for the assistance and were declined. Mr Graham, his office and people assessed the financial capacity of those applying, and it was found they did have capacity and did not qualify. There were about 1570 applications and only 50 were declined, so you can see the process is working quite well.

Mr President, we received a letter from a fairly new organisation called the Tasmanian Residential Rental Property Owners Association. They made a number of points in regard to the draft of the bill, and this is addressed to Mr Graham. All members were provided with a copy and also to the Attorney-General and Minister for Justice, Elise Archer, and asked a number of questions in regard to the requirements of the bill. Has this organisation had a formal response? I am not going to read out every one of these dot points because there are probably 15 to 20 of them, all quite relevant in the eyes of a landlord.

They were quite critical of the legislation, saying in their view it favoured tenants rather than landlords. I noted the bill will have some protections for landlords if people do not meet their requirements. I also noted that the question raised included: What is the penalty for people who enter a payment plan and do not meet their obligations? Are there any penalties attached to that? I would be interested in having that on the public record.

Obviously, there has been some concern about landlords being able to evict people. The basis of this bill, the original and those extensions, was protecting tenants so they were not evicted, particularly during the COVID-19 pandemic where there was so much uncertainty. In some respects, there still continues to be a lot of uncertainty and people are probably not back to full-time employment. I know a lot of people, particularly in hospitality, who are still working on a part-time basis.

I do not know what the JobKeeper arrangements are for every individual person in the McIntyre electorate - and you would expect that I would not - but it is difficult to know whether JobKeeper is at a rate they were already receiving or whether it is somewhat under, particularly in hospitality where penalty rates, I expect, kick in fairly heavily.

They work long hours like our good selves last night - long hours - and on weekends when other people are out enjoying the weekend. What sort of response has this particular organisation had? We have to make sure we acknowledge there are two sides to this arrangement. Again I go back to the fact that we have been told it has been a pretty good process, fairly harmonious in some respects, but we will always have those particular cases where it has not gone so well and there needs to be extra resources put into that.

I note the last paragraph of the Leader's second reading speech talks about 'supporting Tasmanians who rent or own rental properties'. We need to keep that in mind. I feel sure that Mr Graham and his team will keep that in mind when they look at any situation. There has to be a balance, and landlords and tenants need to understand their relationship.

If you want to get into the rental market, there are obligations as a landlord to provide a fit-for-purpose property. However, a tenant also needs to do their utmost to meet their obligations because as a mum-and-dad owner of a rental property, you have utilities, water - most tenants pay their own Aurora and/or Hydro bills - rates and maintenance because if you do not have a well-maintained property, your asset diminishes very quickly.

We want to make sure we have good quality assets so that we can make sure people in Tasmania are housed and have homes, and possibly longer term arrangements than some people have had in the past.

I support the bill. I hope we do not need to extend the emergency period again. I hope we are going to get through this emergency period and when this finishes, we get some sort of normality. I feel there is a little more normality back in the state today because I have my seat-buddy back. I am looking forward to the future.

[11.37 a.m.]

Ms LOVELL - Mr President, I support the bill. We all know this has been an incredibly difficult period for the entire country, indeed for people right across the world, but here in Tasmania we are all aware of people who have been affected by COVID-19 and by the lockdowns, shutdowns and downturns in business across the state.

It is fair to say that right across every industry affected, there would be people who would be in private rentals who would have had their ability to pay rent challenged. I can only imagine how demoralising that is for people and how difficult it would make things for them - the stress that would place on people every day - and the measures that have been put in place throughout this period have been very welcome and very necessary.

I also acknowledge that it puts additional stress on landlords who are also having to make ends meet in various ways. The Government has taken some appropriate steps to find the right balance between making sure we do not end up with a large number of people who essentially would be evicted into homelessness, protecting their right to live in safe accommodation while at the same time supporting landlords to pay their bills and make ends meet. None of us was prepared for or expecting the circumstances of this year,.

While I understand this has been a process throughout this year and that the measures have been put in place regarding the response to COVID-19, I acknowledge it has been a very dynamic situation and a circumstance in which we have had to move quickly. It is disappointing to hear from the Tenants' Union of Tasmania that while they broadly support the bill, they were provided with a copy of the bill only the day before it was debated in the other place. I am sure was disappointing for them and put them under some pressure to get themselves across the bill and the detail of that.

I understand they had some concerns around some of the wording in the bill. Some amendments were moved in the other place, but for the most part explanations were provided by the minister in that debate - I have to say more so through the briefing we had this morning with the Residential Tenancy Commissioner. I thank the commissioner and his staff for that briefing - we can be confident that he and his office will manage this in a way that will work for people, for tenants and landlords.

One question was not really addressed in the debate in the other place. I apologise for not asking it this morning in the briefing, but I will ask it now of the Leader. What capacity would there be for rental arrears payment orders to be varied if circumstances change? In particular, if somebody is under financial pressure, that circumstance may change and they might find additional work or their hours might be restored. They may have an increased capacity to pay and may wish to pay that debt off sooner, which I am sure would be welcomed by the landlord. In that sort of circumstance, what capacity would there be for those payment orders to be varied because, as I can see it, that is not outlined in the bill?

That question aside, in summary I support the bill. This is a really welcome and necessary further step to support tenants and landlords, and I will be supporting the bill into Committee.

[11.41 a.m.]

Mr VALENTINE (Hobart) - Mr President, it is pleasing to see an attempt here to try to assist those who really must be stressed with the particular housing situations of both landlords and tenants - there is no question about that. I appreciate that - I can just imagine the pressure people must be feeling when the very roof they have over their heads is under threat because they cannot meet the rent. Of course, the landlord, as well, who has to pay the banks -

Mr Dean - And the landlord has to keep the roof on.

Mr VALENTINE - Yes, and keep the repairs going and all those sorts of things. To borrow a term from the previous member for Rosevears who used to sit in this seat, it is very discombobulating for all concerned.

We were provided with some statistics during the briefing. I thank those who provided the briefing for us and the Leader, as always, for providing that opportunity for us to get what I believe are very valuable briefings on all our bills.

In the first round 989 tenants were dealt with in the Rent Relief Fund; 384 in the second round - correct me if I am wrong, Leader; and 283 landlords were supported through that particular fund - $1.5 million in total -

Mrs Hiscutt - How many landlords did you say?

Mr VALENTINE - Two hundred and eighty-three.

Mrs Hiscutt - It is not quite right, but I will correct it in my summing up.

Mr VALENTINE - You will correct the record. Suffice to say, many individuals were assisted during this process. Fifty tenants were denied support due to their own circumstances and whenever anyone applies, not everyone is going to be happy. It is one of those circumstances that we are in - not everyone is going to be pleased, but the fact is support is there for those who really are in need. We heard that for those who might appeal - and correct me if I am wrong again, Leader - there could be a two- to three-month process with regard to the appeal process.

Ms Rattray - Up to 12 months.

Mr VALENTINE - Up to 12 months, the member for McIntyre is telling me. It is not short. Sometimes the relief takes a while to come, and one can only hope that everybody keeps their head and tries their best to make sure some sort of an even keel is kept.

The recovering of arrears for those who cannot pay may indeed be coming out of the rental bond as a way of dealing with that.

We heard the Real Estate Institute of Tasmania is comfortable with the bill, but the Tasmanian Residential Rental Property Owners Association does not support the bill. We are not going to please everybody, but I would be interested to hear the details of the response to the Tasmanian Residential Rental Property Owners Association and its particular concerns, as the member for McIntyre requested. We read through the association's letter and it had quite a number of concerns.

I broadly support this bill. I will listen to other members' offerings. I hope we can all get through this time, whether people are renting or property owners, and we can be compassionate as a society, understand all perspectives, and minimise the stress being experienced during these unprecedented times. We all know that.

[10.46 a.m.]

Mr DEAN (Windermere) - Mr President, I thank the department for the briefing this morning, Leader, and for the answers provided to questions asked. That process helps a lot when you are moving through these bills. It is a good process we have.

In speaking on this bill, I identify for the record that I am a landlord. I make that known should it be considered a conflict of interest. I identify that for all those involved.

I do not think there would be any landlord who was not behind supporting tenants and the programs the Government has put in place during the COVID-19 period. I do not think there would be one landlord who could speak against any of that and wanting to help their tenants out. We all want to see them doing well. We all want to see them with a roof over their heads and to see things running in the right direction for them. That is an important part of this whole process.

In my particular case, I have absolutely brilliant tenants who have been there for umpteen years and look after the properties probably better than I look after my own. They are absolutely brilliant. I have that benefit.

Without landlords, you do not have rental properties. We have to have landlords and there is this position -

Mr Valentine - It is both ways. If you do not have renters, you do not have landlords either.

Mr DEAN - You are absolutely right, but you are always going to have renters. It is a foregone conclusion that they will always be there, but we need landlords to be able to provide those properties. That is a very important part of this. Many people think landlords are rich and well-off, and it does not matter too much - they can suffer their costs, including the people who rent properties and do not pay rents, and all those other things. That is not right. Obviously a few would be in that category, but the majority of people - the landlords I know - are ordinary

mums and dads with a property they have come by for whatever reasons and/or other people who have been able to invest and get a property and are struggling themselves. They are also struggling. It is not right people continually label landlords as well-off and can suffer losses that they will not notice. It is absolutely not true.

I can give an example of one case during this COVID period at East Devonport, where a landlord had a property and his tenant took advantage of the system and refused to pay rent during this period. The landlord came to me for advice in relation to this. The case might be well known - I do not know. The tenant refused to pay rent, but also refused to make an application to the Government through the department for any rental assistance and support she might get.

It was so frustrating for the owner that he had to put the house up for sale - and from what I know, the tenant did not apply for support because they still held their job. I think that is what happened. A number of buyers came into this property, and the tenant was always there - they made sure that they were there, because notice had to be given and all the rest of that. What happened was the tenant in each case proceeded to tell a prospective buyer of all the faults of the property and pointed out mould, pointed out some spiders, ants and different other things. A number of deals fell through.

However, he came to me for advice fairly recently, and I gave him advice that I thought was proper by contacting the department. I said, 'You might also make a phone call to Ben Bartl, and he might give you some advice on what you should be doing and how you should handle this matter'. When he asked me what he should do, I said, 'If it were me, I know what I would do - I would just throw them out.'

He did not do that. As things happen, the property has now been sold. He rang the other day to thank me for the advice, told me that the property has now been sold and things have been sorted out.

This is what is happening. Tenants at some properties would not make the applications and simply cut the landlords off by not providing the funding they were entitled to. There are some difficulties there.

How many tenants would we have in this state - just private rentals and tenants? I am not quite sure. I guess the department might well have that excluding, I guess, Housing Tasmania properties. It would be interesting to know, because the numbers given this morning are not as high as I thought they might have been, to be quite frank. Figures have been mentioned by other members here.

It probably did not hit in that area as hard as I thought it might have. I thought we would be looking at several thousand, but that is not the case. That is a good position for us to be in.

Ms Rattray - Was the honourable member thinking there would be a higher need than the $1.5 million?

Mr DEAN - Yes, I did. I thought there would be a much higher need with what was happening and so on.

Ms Forrest - A lot of people are in public housing, which is different.

Mrs Hiscutt - He is not asking for that figure.

Mr DEAN - I am asking for private.

Ms Forrest - When you are talking about need, a lot of people were assisted through those programs.

Mr DEAN - They were. How well, at the end of this whole thing, are tenants going to come out of it, with debts incurred and the arrears they have to pay off?

Many of these tenants have also been supported by JobSeeker, and by other government payments as well. It is going to be interesting to see just what the outcome is at the end of this whole process. Sadly, and unfortunately, I think there are tenants who will be in some trouble in the future, hence issues and problems for landlords as well.

We will wait and see what happens. For instance, rental increases - are we in the process now where landlords can increase their rents at this stage? I suspect they would have to be. We have had some steep increases in land tax, Mr President, and somebody has to pay it. I suspect there will be some rent increases - and probably some fairly steep rent increases as well. I am not saying that I will be doing that, but I suspect others may well be.

Mr Valentine - With rent, it could be argued that because interest rates are down, landlord costs are going to be down as well. It may not lead to rent increases.

Mr DEAN - Sure.

Mrs Hiscutt - I am sure the member would be aware that you cannot put the rent up during the emergency period.

Mr DEAN - That is so. When is the emergency period -

Mrs Hiscutt - The first of December.

Mr DEAN - The first of December - the reason I raise this is because it has been raised with me by landlords as to when and how they will be able to accept the increases in costs they will have to absorb during this time. At the end of this emergency period, what sort of rent increases will we see, and how will that impact tenants?

We will need to work through many issues. I thank the department for the figures we were given this morning.

It was interesting that of the applications, only about 50 were rejected, so it would seem people were generally doing the right thing. The processes in place were fairly strong, yet they were able to resist rorting or manipulating the system. It is good that was happening.

I will certainly support the bill.

[11.57 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have the correct figures for the members for Hobart and McIntyre, which I will get to them.

We started with the member for Launceston - how does the bill provide for a subsequent emergency period? The bill inserts a new proposed section 3B into the Residential Tenancy Act 1997, which will provide for a subsequent emergency period to be declared by the minister by issuing an order.

To issue the order, the minister must be of the opinion that it is necessary to declare the period so as to reasonably mitigate any significant widespread hardship caused, or likely to be caused, to a significant number of tenants as a result of COVID-19. The threshold, therefore, is that an emergency period is necessary to mitigate significant widespread hardship for a significant number of tenants.

To the member for McIntyre- as at 23 October 2020, the Tasmanian Government has provided -

- $839 268 to support 989 tenants under the Rent Relief Fund;
- $365 402 to support 384 tenants under the second round of the Rent Relief Fund; and
- $276 024 to 203 landlords under the Landlord Support Fund.

This is a total of $1.47 million, and the funds remain open until 1 December 2020.

Member for McIntyre, on engagement with the Tasmanian residential property owners - I have a letter to read out on specifically on that.

Ms Rattray - They have 600 members, so it is a significant organisation.

Mrs HISCUTT - The Residential Tenancy Commissioner met with Ms Louise Elliot, the President of the Tasmanian Residential Rental Property Owners Association - I will call them the association - to discuss the bill and the organisation's concerns. I will just read from the record of the meeting -

> The TRRPO has raised concerns regarding the ability to reinstitute the emergency period, the general impact the rent arrears payment orders may have on landlords and sought clarity on certain technical matters covered by the bill. With regard to the emergency period, the TRRPO requested that a minimum notice period be included before the Minister was to declare a subsequent emergency period. The TRRPO has suggested a period of at least 20 days.
>
> The bill does not include a notice period for this power. This is because, in the event of a future outbreak of COVID-19, there may not be time for such a notice period to be given before protections are required. The bill, however, does include protections for use of this power. To issue the order the Minister must be of the opinion that it is necessary to declare the period so as to reasonably mitigate any significant widespread hardship that is caused, or likely to be caused, to a significant number of tenants as a result of COVID-19.

The TRRPO also raised questions regarding the enforcement of the rent arrears payment orders. A rent arrears payment order is in force during the life of the tenancy and, in the event the tenant complies, offers protection from eviction for any rent arrears the order relates to. The rent arrears payment order does not override the obligation of a tenant to repay rent arrears but instead outlines a schedule for doing so.

In the event a tenancy comes to an end prior to the rent arrears being repaid, the tenant is liable for any balance of rent outstanding. This can be recovered via the landlord by the bond and, in the event the outstanding rent exceeds the bond, by using a collection service or applying to the courts.

The TRRPO has also sought clarification on the extent to which the landlord will be consulted in the context of the rent arrears payment orders. The Residential Tenancy Commissioner is required to notify the landlord as soon as practicable on receiving an application of a rent arrears payment order. This provides the landlord with any opportunity to provide any views with regard to the repayment order but it does not require them to do so.

The Residential Tenancy Commissioner will engage with landlords in the development of rent arrears payment orders where it is necessary and desirable.

The TRRPO has also indicated support for limits on the time frames for rent arrears payment plans and legislated time frames for an application for a rent arrears payment order to be made. The bill does not include these measures so as not to preclude the Residential Tenancy Commissioner from finding commonsense outcomes for landlords and tenants.

I am confident the Office of the Residential Tenancy Commissioner will assess applications in an appropriate time frame. The Tasmanian Government has provided the necessary resources to the Office of the Residential Tenancy Commissioner to meet the expected demand for these services.

The TRRPO has raised a number of other questions relating to technical matters included in the bill. The Residential Tenancy Commissioner has met with the TRRPO to clarify these matters and discuss the bill in more detail.

Ms Rattray - Thank you very much, Leader. That was very useful.

Mrs HISCUTT - Good.

The member for Rumney asked: can a rent arrears payment order be amended after it is issued?

The Residential Tenancy Commissioner will issue a rent arrears payment order having regard to the individual circumstances of the tenant. This will include the amount and frequency of repayments in line with the capacity of the tenant to pay, and any order will form part of the tenancy agreement between the tenant and the landlord. While a tenant is not able

to apply to amend a rent arrears payment order, a tenant and landlord can reach agreement to amend the repayment plan in light of changed circumstances.

Member for Windermere - there are approximately 44 516 tenants and/or tenancies in Tasmania based on data held by MyBond. These relate to private residential tenancies. Rent increases - rents cannot be increased during the emergency period. I clarified that during the member's contribution. After the emergency period, normal arrangements will resume. A landlord can increase rent but not more than once in a 12-month period. Any rent increase must be reasonable. Tenants can apply to the Residential Tenancy Commissioner to have a rent increase deemed unreasonable. The Residential Tenancy Commissioner can disallow or alter the increase if it is satisfied that it is unreasonable. In considering this, the commissioner will have regard to any increase in costs such as taxes for the landlord.

Bill read the second time.

RESIDENTIAL TENANCY AMENDMENT (COVID-19) BILL 2020 (No. 37)

In Committee

Clauses 1 to 4 agreed to.

Clause 5 -
Section 3B inserted

Ms RATTRAY - I seek to confirm the current arrangement - where notices are issued by the minister under the COVID-19 emergency period, will they be scrutinised by the Subordinate Legislation Committee? I want to make sure it is the same arrangement we currently have. As I stated in my second reading contribution, we have had a number of inquiries, briefings and a short inquiry through the Subordinate Legislation Committee. I am interested in whether that process still remains under clause 5, proposed new section 3B.

Mrs HISCUTT - We are dealing with the residential tenancy amendment act. The Subordinate Legislation Committee scrutinises emergencies. This was never, ever under the -

Ms Rattray - We scrutinise the notices -

Madam CHAIR - I might point out to the member that those notices are made under the state Emergency Management Act, not under the COVID-19 act; the Subordinate Legislation Committee does not look at that.

Mrs Hiscutt - This is made under the Residential Tenancy Act.

Mr VALENTINE - I seek clarification with regard to -

> The Minister may, by order, declare a period specified in the order to be a subsequent COVID-19 emergency period.

Where does that sit with the Emergency Management Act? Is it different from that, or is it under the same strictures that the Emergency Management Act provides?

Mrs HISCUTT - This is standalone within the residential tenancy amendment act.

Clause 5 agreed to.

Clause 6 -
Sections 24A and 24B inserted

Ms RATTRAY - In regard to the letter received from the Tasmanian Residential Rental Property Owners Association - by interjection, as I said, I appreciated the response provided - I take the Leader to clause 6, proposed new section 24A (3), where the question was asked: would it would be reasonable to have a time frame such as five business days stipulated? I would just like the response on the record.

Under proposed new section 24A(4), could I have the definition of 'financial hardship' in this context? They suggested it was a -

> … 30 per cent reduction in income compared to the same period [in the] previous year

I believe that is still the case, but I want it confirmed because I do not think we actually talked about a 30 per cent reduction in income for the financial hardship.

I do not need to ask my last question on 'financial capacity' in proposed new section 24A(4)(c) because it was clearly explained in the Leader's response to second reading contributions.

Mrs HISCUTT - In answer to your first question - there is no time frame for notification of property owners. This is in line with other orders under the act and will typically be within two days of receiving applications - so, typically it is two days.

Ms Rattray - Three days better than they asked for; thank you.

Mrs HISCUTT - I will seek some advice on your other question.

Ms Rattray - It was the definition of financial hardship.

Mrs HISCUTT - You are talking about proposed new section 24A(4)(b)?

Ms Rattray - Yes.

Mrs HISCUTT - There is no threshold for the level of hardship the tenant has experienced. This provides flexibility and will typically be as a result of lost employment or income, so it is not wise to set a threshold because there could be many variances within that.

Ms RATTRAY - I understood there was reference this morning to 30 per cent of income - you cannot have any more than -

Ms Webb - Rental stress.

Ms RATTRAY - Yes; does that not come into consideration here? It is purely on people's wages and their commitments as to when somebody has a financial assessment.

While the Leader is getting that particular question sorted, there is some criticism around not having any time frames. The previous response was that it is difficult to give time frames, but how long? What is expected to be the maximum period a rent payment can be put in place for? Are we looking at months? Obviously, it will take a little while if it is an excessive one.

It is suggested by the association that it not exceed six months. What would be the average expected to be put in place?

Mrs HISCUTT - The commissioner, when issuing an order, will seek to provide an outcome that does not put a tenant into rental stress and the rental stress is deemed to be about the income.

Talking about the maximum time period - this will be a matter for the Residential Tenancy Commissioner, who will prepare guidelines for the preparation of rent arrears payment orders. It is important the orders strike a balance between the capacity to pay of the tenant and the reasonable recovery period for the landlord. The bill does not include prescriptive criteria with regard to the value of repayment or the duration of the repayment plan.

The Residential Tenancy Commissioner will be able to apply discretion, having regard to the individual circumstances of the application.

Ms Rattray - So no real expected time?

Mrs HISCUTT - No, it has to be looked at.

Mr DEAN - With each extension of the emergency period, is it the case the same tenants come back each time for support of arrears of rent? If that is the case, do we have any numbers on this, or do we have new people coming in? How does the payment work? Is it only arrears or can it be projected forward? The emergency period is now extended to 1 December to give support in this area. Does a tenant have to wait and apply every fortnight or month? How will it be done if they meet all the criteria?

Have we seen any increases in tenants making application under this legislation to receive arrears of rents?

Mrs HISCUTT - As I said in my summing up and will say again - I do not want to say 'recidivism', but people have needed a second opportunity. I will put that in the summing up for the member for McIntyre to start with.

In first support package, there were 989 tenants while in the second support package, there were 384, so they have applied again.

Mr Dean - Is it the same tenants coming back each time?

Mrs HISCUTT - Yes, they are in a for second lot.

For each fund there is only one application and one payment. To receive a payment, a tenant and landlord agree to a rent variation of a total of up to four weeks rent, which is then paid to the landlord for four weeks.

Clause 6 agreed to.

Clause 7 agreed to.

Clause 8 -
Section 42 amended (Notice to vacate by owner)

Mr DEAN - The Leader might have covered this in the briefing: during the COVID emergency period, were any notices to vacate issued? If so, how many and what has been the position with them? Have they been accepted? Has it occurred? There are restrictions on those notices during this period.

Mrs HISCUTT - Notices to vacate have continued to be issued during the emergency period, but are of no effect unless they relate to wilful damage or unlawful use - we are all aware of that. Any notice issued during the emergency period will take effect the day after the emergency period ends, provided the notice period has been served.

Mr Dean - How many have there been?

Mrs HISCUTT - We do not have access to those figures, I am sorry. If you are keen, we can put it on the Notice Paper at your convenience. We cannot get it because it is not collected.

Clause 8 agreed to.

Clause 9 -
Section 43 amended (Effect of notice to vacate)

Ms RATTRAY - The Leader will be pleased that this is my last question.

I asked this question in the briefing. Again, it came from the association, because really, upon reflection, a number of its concerns were about the wordiness of clauses. Obviously, we are used to the wordiness; this particular association has not quite got its head around the wordiness yet. It is not a good idea to dispute the Office of Parliamentary Counsel, because its officers know how to write, and we just know how to read.

In proposed new section 43(2A)(d), where it asked about the wordiness - and this is under -

> (2A) A notice to vacate on the grounds of failure to pay rent is of no effect if -

Then it says -

> (d) each part of the total amount, of rent in arrears, that is required under the rent arrears payment order to be paid within a period,

specified in the order, that has expired has been paid before the end of that period.

Could I have a layman's assessment of that? I know I have been here a little while, and I am used to wordiness, but that did seem quite wordy.

Mrs HISCUTT - The member will be pleased to hear there is a very simple answer to that question. We all appreciate the need for it to be written correctly by OPC, but basically, it means that the order has been paid on time and in line with the payment schedule.

Clause 9 agreed to.

Clauses 10 and 11 agreed to and bill taken through the remainder of the Committee stage.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

BUILDING AND CONSTRUCTION (REGULATORY REFORM AMENDMENTS) BILL (No. 2) 2020 (No. 39)

Second reading

[12.29 p.m.]

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

That the bill be read the second time.

Today I am pleased to introduce the Building and Construction (Regulatory Reform Amendments) Bill (No. 2) 2020.

This bill is the second of its kind that I have presented this year.

Members will recall the first bill of the same name was introduced in June, and passed both Houses with only one minor amendment.

The first bill focused on implementing a range of regulatory reforms to tighten up the permit and approval processes within local government, TasWater and TasNetworks.

I think it is important to note that there was broad support from just about everyone in this House, and in fact the other place, for these reforms to be extended to our own state Government agencies in this tranche.

That was June, and here we are just months later with the second tranche of reforms that will hold our own agencies to account. While the conversations were not always easy, the minister is pleased to say that they have come up with an important raft of proposed changes.

The interdepartmental committee, chaired by the Department of Premier and Cabinet - DPAC - and supported by the Office of the Coordinator-General and the Red Tape Reduction Coordinator, oversaw the development of tranche 2 of the building and construction reforms. Through these discussions, a number of reforms have been agreed with agencies.

The first one I would like to touch on is the EPA time frames. The first reform addressed by the bill commenced at part 2 on page 6.

The EPA currently has a 28-day time frame for assessing whether an activity is a class 1- or 2-type activity.

The EPA also has time frames for issuing assessment guidelines of 21 days for class 2A activities, 28 days for class 2B, and 63 days for class 2C.

The EPA, however, does not have any time frames for assessing whether a proponent has complied with those guidelines.

This is what we intend to rectify.

The bill requires the EPA to make a decision on whether or not the case for assessment has been accepted by the EPA board within 42 days of the request for assessment.

Members will also see, throughout this bill, that we do not expect the regulators to make a decision in the absence of having all of the information they need.

To this end, the EPA is allowed to make as many requests for further information (RFI) as it needs during the first 40 days of receiving the request for assessment.

However, once the proponent provides the information requested by the EPA, it must consider the information and make a decision within a defined time period of 42 days.

The EPA must notify the proponent within eight working days as to whether the response to the RFI is satisfactory or not.

Finally, members will see throughout this bill a recurring theme that stops the clock on the decision-making time frame when the first RFI is issued, and ends when the regulator is satisfied the information provided meets the requirements of the final request for further information.

In this case, the stop-the-clock provisions for the EPA are detailed in section 27FA(6).

Planning permit conditions

The next reform establishes a new statutory set of time frames for permit authorities (councils) and associated regulators to determine if planning conditions have been satisfied or not.

Most planning permits that are approved have conditions attached, which must be satisfied before building can commence.

Sometimes it might be additional information such as how parking will be dealt with, or the setting of conditions by another regulator such as the Heritage Council or TasWater.

Under the current legislation, there is no time frame for the permit authority, or the associated regulator, to determine if the applicant has satisfied the permit conditions they have imposed.

To give certainty and finality to what is currently an open-ended process, we have introduced a series of time frames for the approval of planning permit conditions in Part 3 of the bill, commencing on page 12.

Section 60(2) requires the planning authority to give notice to the applicant within 20 working days as to whether the planning conditions have been complied with, after receipt of the applicant's response to the conditions.

Under section 60(3), the planning authority must, within the first 15 days of receipt of the information from the applicant, advise if any further information is required.

This section is very similar to that imposed on the EPA earlier.

Like the EPA provisions, section 60(4) then requires the planning authority to assess any RFI requests within eight business days of receiving the applicant's response to the final request for further information.

In a similar fashion to the EPA provisions, the bill then has stop-the-clock provisions in section 60(5), which operate in the same way for permit authorities, with the clock starting when the information is lodged, stopping when an RFI is made, and recommencing when the response to an RFI is deemed satisfactory.

The remainder of this section details an interaction between the permit authority, associated regulators and the applicant in responding to permit conditions imposed by those regulators, such as TasWater or the Heritage Council.

These provisions also have RFI and stop-the-clock provisions that operate in the same manner as just described.

This reform is one of the most critical in the bill, as it requires councils and associated regulators to be accountable for responding to permit conditions they have imposed in a timely manner, once they have the information requested.

It is not reasonable for any regulator to set permit conditions and then take as long as they wish to determine if those conditions have been met.

Sealing of plans by council

I will now draw members' attention to the next reform, which institutes a new statutory time frame for councils to approve or reject a final plan for subdivision of land.

Under the current legislation, namely section 89 of the Local Government (Building and Miscellaneous Provisions) Act 1993, there is no time frame in which a council needs to seal the final plans for a subdivision.

Consistent with other reforms we have brought before the House, we are seeking to close this gap and bring certainty to the permit approval process. Therefore, the bill requires councils, within 20 days after a final plan is lodged, to determine if the final plan complies or not.

Consistent with our other reforms, the council has 10 business days to make a request for information in case any documentation is missing or the final plan is deficient. This ensures the council has all the information it needs to make a decision.

Council will then have eight working days to determine if the response to the RFI is satisfactory or not.

And finally, this reform has stop-the-clock provisions to ensure the 20-day time frame stops the moment the first RFI is made, and stays stopped until the council is satisfied the information provided in response to the final RFI is in order.

This reform will provide certainty and consistency in the delivery of new land to market, to support housing and other developments.

Early issue of titles for new subdivisions

Having dealt with the sealing of plans by council, we now turn to the issue of titles for release of subdivision land.

The Land Titles Office have long operated an 'early issue' system for the processing of final plans to give title to each of the blocks of land within a new subdivision.

The next reform gives that process statutory time frames, also under the Local Government (Building and Miscellaneous Provisions) Act 1993.

The bill requires the Recorder of Titles to accept or reject sealed plans within 15 business days of the sealed plans being lodged.

Consistent with our other reforms, the LTO will have the capacity to RFI if documents are missing, or deficient in some manner, within the next 13 days of the sealed plans being lodged.

Again, consistent with the previous clause, the LTO will then have eight business days to assess the information provided in response to an RFI notification.

And finally, the LTO will have stop-the-clock provisions to ensure the clock stops once the RFI is made, and only starts again once the LTO is satisfied the information provided is satisfactory.

This reform, along with the former reform, combine to streamline the release of land in this state, and provides consistency and certainty to the permit approval process.

Nature Conservation Act and special permits

The next reform is made under the Nature Conservation Act 2002 and pertains to special permits to take wildlife.

As the act currently reads, section 29(5), that a special permit granted under subsection (2)(a), 'the taking on specified lands of specified wildlife, specified products of specified wildlife or specified protected plants', ceases to operate after 12 months.

There are clearly circumstances where a permit may be required for periods shorter or greater than 12 months, depending on the nature of the project.

It is our contention that the regulator, being Secretary of DPIPWE, should be able to assign a time frame to the permit relevant to the nature of the project, up to a four-year maximum, and not be confined to the arbitrary 12-month cessation period, with often one or more extensions of time.

To this end, the bill amends the act by simply deleting reference to the 12-month period cited in the act, and replacing it with four years.

This reform will not alter the standards under which a permit is issued, but rather ensure the time frame associated with the permit is relevant to the circumstances under which it is issued, as 12 months is typically too short a period.

It is important to note that this act does not deal with the threatened species, which are dealt with under its own act.

Strata titles

The final reform under this bill relates to the Strata Titles Act 1998 and is consistent with all other reforms, namely it assigns a time frame to a regulatory decision where none currently exists.

Under the provisions of the bill, council must issue, or refuse to issue, a certificate of approval for a strata title application within 30 working days of receiving an application.

The reform, like all the other reforms, ensures council is not required to make a decision until such time as it has all the information it needs, which is why council can make a request for information in the first 15 days of receipt of the application.

Council has eight working days to determine if the information provided in response to an RFI is satisfied or not.

And finally, the bill contains stop-the-clock provisions which ensure the 30-day decision-making period is not running while an RFI is in place.

This reform to the Strata Titles Act continues our efforts to fill in the regulatory gaps.

Stakeholder engagement

In developing this bill, extensive external stakeholder engagement has been undertaken, especially with LGAT. We have made a number of changes to the draft bill to accommodate LGAT's requests, and we believe that they are very comfortable with the contents.

As outlined earlier, the Government has liaised internally with all the relevant agencies through an interdepartmental committee overseen by the Department of Premier and Cabinet.

We, as a Government, and the wider community, expect our regulators to make informed decisions. Hence while we have instituted time frames, we have also instituted their ability to stop the clock and make requests for further information.

However, once a regulator has all the information they need, the clock restarts, and a decision has to be made.

Sometimes that decision will be a no, and that is okay. A decision to say no enables the applicant to make a range of other decisions in a prompt and timely manner.

The applicant may redesign their project and hopefully gain approval, or walk away and look for other opportunities.

What is not acceptable in a competitive environment is having a project stalled, or not get off the mark at all, because a regulator fails to make a decision, or takes months to make a decision.

If we are to compete against other states, and even other countries, we need to be able to give large and small investors confidence that they will be able to get a decision on all the permits and approvals they need in a timely and predictable manner.

These reforms will streamline the delivery of land, houses and industrial projects in this state.

It is important to note that this bill does not fundamentally change any legislation; it just provides for time frames where there are none, or changes existing time frames. It does not alter any approval processes, or seek to take shortcuts. Importantly, no regulator is being asked to make a decision without the full information that they require.

I commend the bill to the House.

[12.45 p.m.]

Ms FORREST (Murchison) - Mr President, this was a very comprehensive and well-prepared second reading speech. It outlined the various changes and requires less comment as a result. However, I want to refer to what I will call the three 'Cs', which have been well covered.

Consistency - it creates a consistent framework, particularly regarding time frames, making it so much easier for everybody - those who are regulators, those who are putting in applications and those in councils who are required to comply with a range of processes within time frames.

I note the one inconsistency in clause 25, an amendment to the Water and Sewerage Industry Act, which amends the act to provide that council must notify the regulated entity, TasWater, within five days rather than eight days, which is the case in all others.

Can the Leader explain why it is deemed necessary to have a different time frame for councils to notify TasWater if the application is likely to impact on their water and sewerage services? Overall it is creating a consistent framework in terms of time frames. Where there is a request for further information to enable a regulator to make a determination or anyone who is required to do so under the various acts that are being amended, they have the right to request that information. The clock then stops during the period they are getting that information and it only restarts when they have all that information. You cannot expect regulators to make decisions without the information they need and have requested clearly.

The time frames seem to be reasonable and reflect time frames put into a previous bill we dealt with not so long ago.

Clarity - around the approach taken to these applications, such as requests for further information, the capacity to take the time required to get that information and then to proceed with that well-understood time frame.

Consultation - this is the Leader's favourite approach. She likes to mention that.

When we dealt with a related bill some time ago, it was clear there had been very limited consultation. Some of my councils had no time at all to consider some really significant issues that would directly impact them. That led to the amendment this House agreed to, from five to eight days as a period for which those notifications could be made.

Consultation is important, particularly when we are imposing requirements on regulators and councils - and particularly on smaller councils where they have less staff available to undertake a range of roles. We need to be very aware of that.

Those three things are really important. I hope we do not get another bill in this area. It is a complex area. It is an area where there are huge expectations on both sides. There are huge expectations, if you put in a development application or seeking to do something, whether it is registering a strata title or whatever, that there is a reasonable time frame within which that will occur. There is expectation from that end.

Regulators expect they will have the time they need to make the determination and a process with which to get the information they need. The Leader said the Government expects - and the wider community also expects - regulators to make informed decisions, and they do, we all do. We hope we can make informed decisions here. We cannot do that if we do not have the information ourselves.

The second reading speech and the briefing this morning clarified a number of those points. I appreciate that.

I think this bill is self-explanatory. It creates a range of consistent time frames and processes that will make it easier for everybody. Could the Leader address that difference with the five days versus eight days in relation to the amendments to the Water and Sewerage Industry Act?

[12.50 p.m.]

Mr WILLIE (Elwick) - Mr President, I support this bill. I am very much pro-development. This bill comes at an important time, given the economic circumstances

facing the state. We need to encourage proponents to get their projects off the ground and moving. A whole lot of jobs will come with that.

We still have a housing shortage and we need to encourage housing supply, so I support this bill. I have a couple of questions. The member for Murchison talked about the stop-the-clock provisions, which I think is a good approach. It spreads the accountability across the proponents and the regulators.

Just like the bill we dealt with previously, this is more of an aspirational target. There are no penalties for not meeting these time frames for some of the departments and regulators. Could Government clarify whether it is an aspirational bill that it is trying to encourage -

Ms Forrest - Set a standard.

Mr WILLIE - Set a standard - maybe have some reporting against that and maybe public accountability, accountability to the parliament. If that is the case, what resourcing is going to go into this? I read through the *Hansard* from the other place and the minister talked about the budget process, secretaries of the department looking at new legislation and the resources that would be required. Have those conversations taken place? Are secretaries already saying if this comes into effect, we will need these sorts of resources to try to achieve the targets are being put in place?

The Leader talked about a number of time frames across all areas of the 10 reforms. I am interested in what consultation has happened on those time frames and how much input the regulators and agencies had into that or is it being driven more from the minister's office?

Ms Forrest - There was a committee she talked about.

Mr WILLIE - Yes, there was an interdepartmental committee but have all of the departments agreed to these time frames? There were a whole lot of time frames mentioned. I think it is important to clarify whether there is broad agreement and a resolution to try to achieve these targets.

I think those are all my questions. I support the bill. I would like to see some of these things sped up and development in our state made easier in an economically difficult time.

[12.53 p.m.]

Mr VALENTINE (Hobart) - Mr President, it is good to see the department has done a bit of consultation. As I said yesterday, and it was in a totally different context, you can deal with a peak body and get broad support, but some of the councils now have certain issues when we are talking about the Local Government Association of Tasmania.

My council would prefer not to have the time frames, as most councils would, because it puts pressure on them.

The thing that concerns me is that for every action, there is an equal and opposite reaction. It might end up that you get more rejections than acceptances. If the council feels it cannot get the answer because it does not have enough information at that 15-day point, it might reject an application simply because it does not have the information available and does not want to take the risk.

It is swings and roundabouts. Without any time frames in there, for some of the government departments involved, it tends to push things out, so tightening things up is not all bad.

I am not suggesting for a moment that these time frames are not something that should be put in place, as they have some merit. Councils - particularly smaller councils - do not always have the resources to make things happen in the time frames people would like, and we may end up with more rejections, which might lengthen the process. Time will tell.

I understand putting these times in place is adding an element, not making fundamental changes, to the act. I hear the member for Murchison's three 'Cs', which are quite good - consistency, clarity and consultation.

Ms Forrest - I thought it was very good myself.

Mr VALENTINE - It is important that everybody involved in the processes associated with this particular bill has some understanding that how they deal with matters can affect the big picture concerning developments and also the dollars somebody actually has to put in to achieve a development.

Every delay is an extra impost in that regard, but we also have to understand that proper consultation has to take place and councils need to be able to perform their role. I understand the time frames for development applications are not being affected, but this is simply provision of information that might speed things up.

I broadly support the bill. I will be interested to see how it works out and whether we end up with more rejections as a result. I have some questions for the Committee stage.

[12.57 p.m.]

Ms ARMITAGE (Launceston) - Mr President, the Building Act is one of the most difficult areas I have to deal with in Launceston. It is one of the areas that gives me the most concern, but I support this bill, which, as we have been told, has three principles repeated throughout.

First - the statutory time frames, which can be anywhere from 20 days to 42 days. These provide certainty and consistency for the applicant, and that is very important.

Second - the request for information, with the ability for the regulator to request extra information. I note the bill enables the regulator to make as many requests for additional information as it deems appropriate, with the clock stopping. That is a very important area too because it can take some time for information to come forward.

I understand what the member for Hobart is saying - having been on council, if time starts to run out, something could be refused, but with a little more time, it can be tweaked and approved. It is important extra information is received to try to encourage development rather than knocking something back.

Third - once the regulator has all the information, it should make a decision within a defined time. One of the complaints I used to receive as a councillor was that people simply wanted to know where their application was at. This bill allows certainty for an applicant or a

developer to know where they are going and whether it is refused. At least, if it is refused, they know they can move on, or if it is approved. That is a very important part of the bill.

Mr Valentine - I might make a point to clarify: it is about the building approvals as opposed to development application approvals.

Ms ARMITAGE - Yes, I understand that.

This is a good bill and I certainly will support it. I am looking forward, though, to a response to a letter I wrote to Mr Graham in May asking when COVID-19 allows -

Sitting suspended from 1.00 p.m. to 2.30 p.m.

QUESTIONS

St Helens Hospital Site - Future Use

Ms RATTRAY to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.31 p.m.]

Following questions asked in August 2019 and again in March this year in regard to the former St Helens Hospital site and its future use, and given that operational responsibility for the site was formally transferred to the Department of Communities Tasmania earlier this year -

(1) Can the Leader provide an update on whether there has been any refining of ideas and a decision made on the use for the site? 'Refining' was used in the previous answer.

(2) If so, has a needs analysis, including a financial and economic analysis, of this decision been undertaken?

(3) If not, why not, given the community consultation session was held in July 2019 together with Communities Tasmania and the Break O'Day Council?

ANSWER

Mr President, I thank the member for McIntyre for her question.

(1) to (3)

The old St Helens Hospital site is currently being used as a COVID-19 testing facility. The Government has been advised that the operators who work on behalf of the Commonwealth Government intend to operate the site at least until the end of March 2021.

Given the current use for the site and the uncertainty around the length of time for this use, the Department of Communities has not progressed further with the EOI process for its future use at this time.

Waratah Reservoir - TasWater Permit

Ms FORREST to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.33 p.m.]

This is the first part of the question I asked yesterday, for which the answer was not available.

With regard to the answer to my questions without notice of the week of 14 October regarding the Waratah Reservoir -

(1) Please provide -

(a) evidence that permits were granted for TasWater to commence works in 2017 pursuant to the Water Management Act 1999;

(b) details of who issued the permits;

(c) why was the public not advised of these works prior to the commencement; and

(d) why was the public not given the opportunity to respond within two weeks as provided for under the act?

ANSWER

Mr President, I thank the member for Murchison for her question.

(1) The answers are -

(a) Permits were not required for the works completed by TasWater in 2017 as these were undertaken under section 165G of the Water Management Act 1999, which covers the safe operation of dams.

TasWater identified a leak in the left abutment of the dam wall (piping) and in accordance with section 165G of the act, TasWater undertook emergency work to address the safety risk. In accordance with section 165I of the act, TasWater notified the Dam Safety Regulator of the remedial actions undertaken.

(b) Permits to undertake emergency works are not required under section 165G.

(c) There are no provisions for public consultation under section 165G.

(d) The two-week representation provision does not apply to works undertaken under the emergency provisions of the act.

Tasmanian Health Service - Rural Hospital Staffing

Dr SEIDEL to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.35 p.m.]

Tasmania has 13 small rural hospitals which are all unique in regards to regional characteristics, bed numbers, bed types, emergency activity, medical support, outpatient public presentations, community services and visiting medical services.

(1) Can the Government provide an overview on how many rural medical practitioners - RMPs - are currently employed by the Tasmanian Health Service - THS?

(2) How many full-time equivalent RMPs are actually employed?

(3) How many beds are actually available in small rural hospitals?

(4) What is the registered nurse - RN - to bed ratio in each rural hospital?

Ms Rattray - Great question.

Dr SEIDEL - Just swiped my comments. Now is the time for music, by the way.

ANSWER

Mr President, I thank the member for Huon for his question and his interest in this matter.

(1) The total headcount for rural medical practitioners within the THS as at pay period ending 19 September 2020 is 37.

(2) The THS advises the headcount accuracy is affected by multiple employment and split cost centres. In these circumstances the employee is only counted once and allocated to the cost centre at the highest paid FTE.

(3) The THS employs local GPs as rural medical practitioners to admit and manage patients in our facilities and in contracted beds such as at May Shaw and Huon Regional Care.

The THS advises that RMPs largely work as GPs outside the State Service. This means the total FTE is low relative to headcount because they do not work full-time hours within the THS.

The total FTE for RMPs within the THS as at pay period ending 19 September 2020 is 2.5 FTEs with an average of 2.51 over the last seven pay periods.

Please also note that rural hospitals in the north-west region are staffed by Ochre Health which is contracted to provide the service to the THS. There are also three sites in the north region staffed by Ochre Health.

(4) As at the 30 June 2020, there are 132 subacute and 95 aged care beds available within the 13 Tasmanian district hospitals, totalling 227 beds. This is in addition to the designated emergency beds at sites.

(5) The THS advises there is no standardised RN to bed ratio or staffing. Across the 13 Tasmanian district hospitals, there is a minimum of one RN rostered per shift.

Interim State Service Review Report

Mr DEAN to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT
[2.39 p.m.]

In relation to the public service review, it is understood a first report has been provided to the Premier and/or to the Government. Will the Deputy Leader please advise -

(1) What is the Government's intention with the report? Will it be made a public document?

(2) If so, what is the expected time frame?

(3) If it is not to be released publicly, is it to be released to all departments and/or areas impacted by the report, and to us?

(4) What is the intention of the Government regarding its implementation and/or actions to be taken from the report?

(5) Are there other phases to the review? If so, how will they or it proceed?

(6) What consultation, and with whom, has taken place at this stage?

(7) This review is examining the needs of the State Service in the future. What processes will be undertaken to include state servants in this review?

ANSWER

Mr President, I thank the member for Windermere for his question.

(1) I am advised that the Premier has not yet received the interim State Service review report but is expecting it at the end of this month or shortly after. The Government's intention is that the report will be made public following consideration by Cabinet.

(2) For this question, refer to question (1).

(3) For this question, also refer to question (1).

(4) The Government will consider the recommendations made in the report and will seek advice on implementation.

(5) The review is being conducted in two phases, each with a consultation period for public submissions. Phase 2 of the review will be conducted from November 2020 with the final report to be provided to the Government in 2021. I am advised that information on how to engage with the review in its second phase will be available on the review website in early November.

(6) Extensive targeted consultations have been conducted during phase 1 of the review, including the opportunity for consultation directly with the independent reviewer and the project team. The independent reviewer and the project team held 53 target consultations.

Thirty-three written submissions were received during phase 1 of the review. These included submissions from individuals, state servants and the broader public, and also 12 submissions from organisations.

(7) Phase 1 of the review has involved both an open opportunity for public submissions and targeted consultations. The head of the State Service wrote to all State Servants at the resumption of the review, inviting them to participate in and to provide submissions. There will be further opportunities for State Servants to participate in consultation during phase 2 as well as to make further submissions to the review. The Government welcomes State Servants making submissions to the review.

Land Tax - Increases

Ms RATTRAY to the LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT, answered by the DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms HOWLETT

[2.43 p.m.]

With the recent issuing of the 2020-21 land tax request for payment and with local government and utility providers having no increase in charges, and acknowledging the state of the economy and Tasmanians' capacity to pay, my questions are -

(1) How can the Government justify an increase in a situation that I am aware of, where there has been an increase of 32.8 per cent?

(2) What is the average percentage increase for this financial year for landowners?

ANSWER

Mr President, I thank the member for McIntyre for her questions.

(1) Under the Land Tax Act 2000, land tax is calculated on the assessed land value of taxable properties owned by a taxpayer at 1 July each year. The assessed land value is determined by the Valuer-General each financial year. Land tax rates and thresholds have not changed since July 2010. The increase in a taxpayer's land tax liability reflects changes in the assessed land value.

The Valuer-General undertakes statutory valuations of all properties in Tasmania every six years. Between each valuation, the Valuer-General also applies an adjustment factor to the values of all properties each year, which is designed to avoid price shocks when properties are formally revalued every six years.

The adjustment factors are based on property sales information, current rental data and a range of relevant market evidence. In times of buoyant real estate conditions, the factor generally increases. Likewise, in the event of declining properties, the factors generally decrease.

(20 It is not possible to simplistically calculate the average percentage increase in land tax liabilities for 2020-21. However, the Valuer-General's determination of the 2020-21 financial year adjustment factors was published in the *Government Gazette* on 11 March 2020. I have a copy of that with all the adjustment factors, and I seek leave to table the document.

Leave granted.

BUILDING AND CONSTRUCTION (REGULATORY REFORM AMENDMENTS BILL (No. 2) 2020 (No. 39)

Second Reading

Resumed from above.

[2.46 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I had finished my short contribution before the break, but, as I mentioned to the Leader earlier, I will endeavor to contact Mr Graham again. I have not received anything from him since May/June with regard to meeting industry representatives about the building problems we have in the north, and probably statewide.

[2.47 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I rise to place on the public record my support for this bill and to speak to a couple of the areas that drew my attention a little bit more than others. I am very appreciative of the consultation process that was engaged with. The message from our earlier bill, when we looked at the tranche 1 reforms, and the criticism that came from around the Chamber at that time, obviously went through loud and clear, and I -

Mrs Hiscutt - Are you talking about consultation?

Ms RATTRAY - Yes, and that is what makes a big difference. It makes a big difference to how we feel as members when we are given a bill to look at, and it is certainly easier when that consultation occurs, and we can be assured it has been undertaken, so thank you very much. It is certainly appreciated.

In regard to implementing the range of regulatory reforms to tighten up the permit and approval processes with local government, TasWater and TasNetworks, I could not count the number of times I have had contact about TasWater and TasNetworks delays, and particularly TasNetworks through the COVID-19 time.

I could never quite work out why, when the building industry was still going much as it previously was, TasNetworks virtually put a 'stop work' on. It would not read the meters - you could not get any meter reading; they were doing it on estimate - and as for the actual works TasNetworks had in its forward planning, it just completely shut down.

Ms Forrest - I can tell you why. I had some constituents who raised this matter. Because so many people were required to work from home, and with people locked up in their home, turning the power off for a whole day became a challenge, and TasNetworks decided just to focus on emergency repairs during that period. I know it had a big impact in my area when we were under full lockdown.

Ms RATTRAY - I was not provided with any of that information.

Ms Forrest - I made that request directly to TasNetworks, yes.

Ms RATTRAY - I just found it interesting, that when people were expecting to have works completed, or at least started -

Ms Forrest - It works on applications, not general works.

Ms RATTRAY - No, just general work - TasNetwork work, putting infrastructure in, upgrading lines and the network in various places. That completely shut down.

Ms Forrest - Where it required turning off power to homes, they did slow that down. I was informed of that.

Ms RATTRAY - Right. This could have well been impacted, because there would have been areas - that was not communicated well to people. It certainly was not communicated to me, and it was not communicated to the people who kept calling me.

Ms Forrest - There may be other reasons, I do not know.

Ms RATTRAY - I found that very interesting. Perhaps not so much - I still saw plenty of TasWater activity, whether you call vehicles going around doing bits and pieces 'activity', but at least it was visible in the community.

I absolutely support - and I know that with any of those representations made to me - not only in this most recent period that we are talking about, but prior to that, the frustration around the lack of time frames has been extraordinary. It really has. I think the quote is, 'I'm pleased to say we didn't need the blowtorch', but it is certainly what we needed to get some of this work done and have a look at those time frames. I appreciate and I know people I represent will appreciate that, too.

I have a question around the crown land leases and landholder consent. Crown land has always been a slow department, and I say that with the greatest respect, because I do not know how many officers they have in there dealing with many queries. It seems to take a long time to get anything in place when you are talking about leases, licences and that type of thing.

I am pleased to see they have been included in this. I thought the question the member for Elwick posed to the Leader around the departments and resourcing areas that now have significant time frames to comply with was a very relevant one.

Mr Willie - They may not have to comply with them; it might be an aspiration.

Ms RATTRAY - Okay. I thought that was a very good point, and I will be very interested in the response to that.

No permit required for certificates - this Government has been very clear that it has attempted, since it came into government, to try to streamline some of these processes, and that is just another part of that.

I note here that it says -

> The Director of Building Control has advised he is prepared to work through this process, but would need to be satisfied the Private Planners have Professional Indemnity Insurance to cover this type of assessment -

and that is around private planners and the issuing of an NPR.

Again, from what I can see, over the past few weeks, the director of Building Control must have the busiest office going around. Resourcing is one of those issues. It will be interesting to see, through the Estimates process, how well these departments are being resourced for any additional obligations they will now have, again acknowledging that EPA have those time frames. Then we have the planning permits.

As I have said, local government are pretty good at meeting their time frames in most cases that I have had any dealings with - again, acknowledging that I do represent a number of small-to-medium councils that struggle to have some of those specific areas, and to have dedicated people. They often have to buy in services.

I am pretty certain that the building inspector at Dorset is also the West Tamar building inspector. There is a bit of resource-sharing going on there and that will continue to be the case.

Mr Valentine - Four councils do that with planning officers.

Ms RATTRAY - In the past Brighton Council and Dorset Council used to share their payroll together. I am not sure if that is still the case. I have lost a couple of contacts from local government in recent times; they have moved on to other pastures. I am not sure what the relationship is there now. That has been one of those resource-sharing initiatives we often talk about with local government; rather than reducing the number, we resource-share more. That will be a debate for a much later day, Mr President.

The request for information was referred to quite a few times through the second reading debate. How fulsome is the request for information process, given they are allowed to stop the process after there is a request for information from an applicant or someone that is looking, a developer or whatever? Do they get themselves well assembled so all the requests for information are put into the one process or is it this drib-and-drab arrangement? That is where a lot of frustration is - you provide this lot of information because it has been requested, that goes in and you think you are right to go. Then there is another request for more information and you think, 'Why didn't they tell me that at the start? I could have been doing that also.'.

One of the frustrations I have heard on a number of occasions is that the request for information seems to be constant. The clock stops every time there is a new request, so even though we look like we have some time frames and, aspirational or not, still, nothing seems to happen in a timely manner, according to a developer or a proponent. How is this relayed to the department, entity, utility or whoever is requesting that information to get themselves assembled well enough so you only ask for one request? Obviously, sometimes there is a requirement to have additional information on top of what is already being supplied, but if they already know what they are going to be asking for, do the request all in one, do not break it up into all these stop-and-go arrangements. I am interested in the response, Leader, in regard to this. I will be happy to be proven wrong, but that is the mail I have been getting for a number of years.

The early issue of titles for new subdivisions: I would like to see timely issuing of titles for any block. It does not matter whether it is a subdivision or whatever it is. Often, when people are doing boundary adjustments and that type of thing, it seems to take a long time. Is there an issue with resourcing in the Land Titles Office? I do not know. That is something again that we might well look at during the Estimates process. Forgive me for not knowing who that might be, but I think it might be, Estimates Committee B.

Ms Armitage - I have found the Land Titles Office has been very timely with its titles. I had some constituents of late and they have been very efficient at the Land Titles Office.

Ms RATTRAY - Fantastic news; that is some really good feedback. The Land Titles Office might have had an increase in resourcing that enables that or else perhaps there has not been as much work with things slowing down for COVID-19.

Ms Armitage - It is hard getting them to answer the phone, but once you actually reach them they are great.

Ms RATTRAY - Answering the phone in departments has been particularly hard and challenging.

Ms Armitage - I think there are not many people there, but they are very good.

Ms RATTRAY - Often there is nobody in the offices. They are still working remotely. I do not know that the diversions are working at times, because it just rings out.

Ms Armitage - You cannot leave a message?

Ms RATTRAY - It does not get you anywhere much. That is my comment in regard to that.

The Land Titles Office, consistent with previous clauses, will have eight business days to assess the information provided in response to an RFI notification. Again, we have a lot of requests for information. That is something I am keen to know and fully explore how that process works.

I am interested in the Nature Conservation Act and the changes around special permits. I know it was changing up to a four-year time frame, where it had been confined to an arbitrary 12-month cessation period. Is that related to any particular proposal that might be on the cards?

I am not sure where that request has come from, and how it fits into streamlining and having time frames in this. I would be interested in having a little bit more understanding of that on the public record, because there is some work happening in a conservation area in part of my electorate at the moment, and it seems to be causing a few issues in the community.

I am interested in whether this has any relationship to the proposed Birralee site for a northern correctional facility. I will name it; I will not beat around the bush. That is what I am asking.

Strata titles: again, I congratulate the two gentlemen in the back of the Chamber for the consultation, which has been thorough in my view, on tranche 2 of these building and construction regulatory reform amendments.

As the member for Elwick said so well in his contribution, never has there been a time in Tasmania that we need reform so that we can have consistency, but so we can also have that confidence for people to initiate proposals to initiate developments - but I will be interested in the response around whether these time frames are aspirational. What repercussions are there for departments that do not meet them? Also, is there an issue with resourcing to meet these requirements?

We are putting a fairly large blowtorch onto them, and we need to be certain that by doing so they are adequately resourced to take up these initiatives and fulfil their obligations.

I support the bill.

[3.03 p.m.]

Ms SIEJKA (Pembroke) - Mr President, as we have heard, the bill looks at proposed amendments to a number of pieces of legislation. While we have talked about consultation to get to this point, I am interested in knowing what else will be happening. I would like to have on the record how these changes will be communicated to proponents, regulators, local government and the wider community into the future. It will be very important to have a good level of information provided for that, because that is often the question we get.

The second reading speech for this bill noted three other reforms not dealt with within the bill, which are intended to be addressed through departmental policy changes and ministerial directives.

I would also appreciate the Leader outlining, for the record, the processes that will accompany this, including consultation, public exhibition and further details of both processes. I note this was raised in the other place but I understand it still has not happened. Many of the amendments proposed in this bill were identified during the Tasmanian Development Regulatory Reform project and I understand that to date the report from this project has not been publicly made available, and nor have the submissions.

It was raised in the other place, but it would be useful to have access to those findings and the final report to fully understand the different perspectives on all the changes, merits and evidence-base for all of these.

Another thing raised in the other place was around consideration for a review: whether or not that is intended, how that would look and to ascertain how everything has been.

Speeding-up of processes is a positive move but only if it means corners are not cut. What review mechanisms are in place for the legislation? How will the success of the reforms be measured and monitored over time? How would that be communicated?

I support the bill, but would appreciate your consideration of those questions.

[3.06 p.m.]

Mr DEAN (Windermere) - Mr President, I support the bill as well. Adding to the position of the member for Pembroke, we were told there was good and wide consultation. Were the home designers, architects, all those groups - the bigger/larger developers, the builders - dealing with councils in relation to DAs involved in this? I would appreciate if that also could be included.

I thank the department for the briefings this morning. They were well done and answered all our questions in a very frank way, which is what I expect. I will support any bill where an attempt is made to remove red tape to streamline processes, improve time frames, costs, economy and all those things.

The member for McIntyre mentioned that builders are extremely frustrated with the processes they have to go through. I am involved in a building DA and am already experiencing some of the difficulties that go with it. This building is on an 8 acre block, about 3.4 hectares, and after the first plan was submitted by the designer, a position came back from council that it could not be approved because it exceeded the 5 per cent coverage of the land and certain coverage on lands is a requirement.

I said to the home designer, 'I am not quite sure what school the council went to, but this is on an 8 acre block.'. There is a riparian strip at the bottom of it that you cannot build on, but it is an 8 acre block and there is no way known that building covers anywhere near 5 per cent of the block. That has now been sorted out.

Ms Rattray - Is the member looking to build a northern correctional facility?

Mr DEAN - No, it is an average home; it has a Colorbond shed on it at the present time. Nothing special at all, but that is the sort of thing that comes back, and this is what gets frustrating. As the home designer said, 'This is the first response and this is the start.'.

I remember when I was the mayor of Launceston, having discussions with the planning areas within the Launceston City Council. I tried to impress on them that these people who want to develop are our clients and we should be doing everything possible to help them, to get them through their issues, and to proceed as quickly as we possibly can, rather than continually putting obstacles in their path.

I remember having that conversation a number of times with our planning area and so on - 'They should not be seen as an enemy.'. That is what some of these builders and so on will say - 'It is as though we are their enemy.'. Well, we are not. We want to do business; we want to pay the council more rates; we want to do all of this.

We have a long way to go, but that is not denigrating the planners and it is probably a cultural thing. Perhaps in some areas it needs changing. Councils are busy and they have certain requirements they have to comply with and all those things. I realise all this, and that

is why I will support any bill that will help get rid of red tape, streamline processes and move things forward.

Mr Valentine - It is also called not wanting to be sued.

Mr DEAN - Yes, you are probably right.

The comment of the counsellor in the paper on Monday was interesting. Some of you would know who it was. I am not sure who at the council made a public statement about 'Why do you need us?'. His statement was along that line - 'Development applications of planning divisions within our councils have to go through the processes, and all these buildings have to comply with everything, so why do you need us?'. We cannot really speak against the planning area if they have done everything right. It was interesting that the Local Government Association of Tasmania - LGAT - came back and said it did not endorse what this counsellor was saying, but had some sympathy for his position and where he was going.

I tried the media release at lunchtime but I did not have enough time to grab it.

Another developer who contacted me last week is building a normal home in the Deloraine area and building it in a built-up area - sealed streets and footpaths but at the back of his home a grassed paddock, which is part of the farm property. As he said to me - $30 000 and he is still going through council. He is not finished yet and had a big issue about the bushfire plan for his property. I might have mentioned it to the member of McIntyre and others.

Some of the positions adopted do not seem to be sensible. He said it has been given a high bushfire rating simply because it has a paddock at the back of him. That paddock is also along the back of a number of other houses.

Ms Rattray - It is not an adjoining bush block?

Mr DEAN - No, it is not an adjoining bush block, it is just paddocks and goes into another clear area.

As he said, he had quite a bust-up with a council staff member or whoever it was who was doing the plan and that would not help. He said he was so frustrated with the process and what was happening, how it had been dealt with and so on. I have that still to go through so I -

Ms Armitage - When Mr Graham gets back to me about that meeting I asked for in May, would you like to join us with the other builders and designers who have problems?

Mr DEAN - Certainly, I would like to join you in relation to that.

Obviously, there is still work to be done on this. We were told that this morning and there are further areas we will get back into this place in due course. We are moving forward - there is no doubt about that. The last tranche we had made changes and differences and so on. It would be interesting to see if it has really made a difference because talking to the designers involved in our case, they are not saying it has.

I would like to hear from others. It might just be the one person, so I do not want to criticise council or anybody else for what is now in place without speaking to other people as well.

Having said that, Mr President, I support the bill. I appreciate the fact there is still a lot of work to be done here. I think we can make a lot more changes that can assist developers and the DAs to get through the processes much more quickly and so on.

Certain things can now be done. If you look back a long time ago, you could not even build a bit of a carport without having to go through the council processes, get permits and DAs and goodness knows what else. People would remember those times.

We have moved on from there. You can now build carports without going through those processes - albeit, at the end of it, you are required to provide the council with -

Mrs Hiscutt interjected.

Mr DEAN - Yes, it is a document. It is called a number-something document. You are simply required to fill that in and send it to council so they have a record of it. That is acceptable. We can do that now.

We have moved on, we are moving forward but we still have a long way to go.

I certainly support the bill, Mr President.

[3.16 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank members for their contributions. I have an array of answers here, starting with the member for Murchison.

Clause 25 - why is the time frame different under the clauses? Clause 25 deals with an administrative process that is quite different in nature to a request for information, or a request for further information, because it does not involve complex consideration.

Clause 25 merely deals with a binary decision point, which is why it is a shorter period.

The member for Elwick - aspirational bill. In effect, this is an aspirational bill, as there are no penalties. This was deliberate, and this bill is a first - and hopefully final - step in providing accountability for regulators.

Mr Willie - There was another question around reporting.

Mrs HISCUTT - I will get to the end of your answers and see how we go. Resourcing was one of them. The number of applications received will not change, so fundamentally the amount of work being asked of a regulator will still be the same.

The Government believes that internal reprioritisation will occur within regulating structures. If regulators struggle to meet these time frames, there will be no penalties, but it is expected that regulators will internally change their processes to meet these time frames. Reporting is expected to occur in annual reports.

Consultation with agencies - agencies were consulted extensively, through both the IDC and directly. Agencies were integral in setting time frames, which is evidenced by how they vary from 20 days to 42 days.

Mr Willie - My question was whether they approve the time frames. Saying they were integral does not necessarily mean they approve the time frames. It says they had input into them.

Mrs HISCUTT - It was not an imposition; it was a discussion with them. That is why they vary, so it was consulted and agreed upon. It is different from time to time because of that consultation process.

Mr Willie - It was agreed by them.

Mrs HISCUTT - Regulators will only be required to make a decision once they have all the information. The clock stops until they have all the information. We do not believe the bill will not lead to more rejections, just timely decisions.

The member for McIntyre - Crown Land consent. That reform is not part of the bill. However, the Government has been working with Crown Land to amend policy relating to lease and licences. The intent is to make it optional as to whether a lease is negotiated before or after DA approval. The reform will not affect landholder consent still being required before a DA will be considered.

The member for McIntyre - no permit required. This is not covered in the bill. However, as discussed in the other place 'no permit required' applications are being considered by Government. The Director of Building Control is considering amending his determination to allow 'no permit required' certificates to be issued by private planners who are appropriately qualified and insured. This will provide an alternative to council issuing such a certificate.

Then you talked about request for information. Is the RFI in dribs and drabs? The question criticism is fair and noted. The bill does not stop regulators making multiple RFIs. However, the bill does require the RFIs to be made in the first part of the decision-making process.

Ms Rattray - I think that means that there could an improvement on the process and we are working on it.

Mrs HISCUTT - It sounds like an expectation.

Early issue titles - 'early issue' titles are generally easier to administer than older titles which may have a number of unique issues that could take a substantial amount of time to resolve. In many cases it could be months, which is why only 'early issue' titles were included. These are typically issued for new subdivisions that have fewer complexities associated with them and can therefore be dealt with in a known time frame as encapsulated in this bill.

The member for McIntyre also asked: do Nature Conservation Act reforms relate to a particular project? I think you may have mentioned a specific prison site, for example.

Ms Rattray - It just seemed interesting that it was in that bill.

Mrs HISCUTT - If the reform does not relate to a particular project, section 29(5) of the Nature Conservation Act 2002 provides for the issue of special permits to take wildlife. These permits are issued for the taking of wildlife and products of wildlife for circumstances not

prescribed elsewhere in the act or its regulations, and includes such things as removal of roadkill, infrastructure development and maintenance, and actions required for public safety.

The majority of permits issued in these circumstances are for products of wildlife. Products of wildlife include disused or unoccupied burrows or nests. Issuing permits of this type, for the taking of live wildlife, is very rare. It is also important to note that each application for a permit of this type is assessed for significance of the impact and whether appropriate avoidance and mitigation measures have been applied. Each permit of this type issued includes conditions relating to the management and reporting of impacts.

Section 29 currently imposes a time limit on such permits of 12 months. This limitation is inconsistent with the act's other permits to take wildlife and its related subordinate legislation, the Wildlife General Regulations 2010, which impose no such time limits for permits relating to activities such as hunting and scientific research. Similarly the Threatened Species Protection Act 1995 provides for the issue of permits to take threatened species without a prescribed time limit.

The current requirement frequently requires the same permit to be repeatedly applied for, and subsequently issued, where activities occur over a period greater than one year.

Ms Rattray interjected.

Mrs HISCUTT - Yes, that is the basis of it. The purpose of the amendment is therefore to -

(a) bring this element of the Nature Conservation Act 2002 in line with the rest of the act, its subordinate legislation and related legislation allowing for the take of wildlife, and

(b) reduce the unnecessary administrative burden on applicants to take those responsibilities for issuing special permits.

Section 29 of the act, if amended as proposed, would allow the secretary to stipulate the duration of the permit, as occurs with all other permits issued under this act.

Any permit to take threatened wildlife must stipulate the duration of the permit. Examples include the condition of the approval of the Tarkine Drive required by the Department of State Growth to collect road-killed Tasmanian devils and spotted tailed quolls for research purposes and to remove other road-killed animals away from the road to prevent attracting scavengers into areas where they would be at risk of traffic collisions. This requires section 29 permits to be issued on four separate occasions - 2013, 2015, 2016 and 2017 - with each occasion requiring a new permit application.

Tasmanian Irrigation was issued with a permit in relation to the Scottsdale Irrigation Scheme for the destruction of dens and burrows for pipeline construction. This permit included a condition requiring the implementation of protocols to minimise any risk that animals were in the burrows and might be injured during decommissioning.

Due to the time restrictions in section 29, the permit was unable to be extended and new permits had to be issued in 2018 and 2019. Each new permit required an application form to

be submitted and reporting on works undertaken under the previous permit. This has been the case for many of the irrigation schemes and has had a significant accumulated administrative burden.

Ms Rattray - Sounds like a sensible approach, Leader.

Mrs HISCUTT - When you hear it like that, it certainly does. Mr President, I think I have answered the question - but wait, there is more.

These were for the member for Pembroke. How will the changes be communicated? The Government will continue to liaise with key stakeholders, including LGAT, industry associations and the community. Relevant agencies will take responsibility for much of the communication strategy.

Non-statutory solutions is the last bit. Government's consideration of the blockages and hurdles facing industry identified a range of solutions. Some of these were statutory and some were non-statutory. As the Government works its way through this reform project, some simple solutions have presented themselves. Government will always look at the best solutions to resolve red tape issues whether they are statutory or non-statutory. In this instance, government wanted to highlight the work going on behind the scenes with regard to cutting red tape. It spoke about the Tasmanian Regulatory Reform Report.

The Government commissioned a report in 2018 to look at red tape facing the building and construction sector. This report helped inform government on its red tape reduction project. However, it is not the only basis for its work, and government has moved on with its agenda. As a result, government does not intend to release the original report. We talked about the review mechanisms and the success in the communications.

Government intends to monitor the time frames in the bill, as it expects the time frames to be reported in their annual reports. If the time frames are not being met, the Government will consider options to provide penalties or consider other remedies to improve time frames. Success will be measured by the degree of compliance reported in the annual reports. All changes will be communicated through normal channels to stakeholders.

One last one for the member of Windermere - were architects and builders consulted? Yes, there had been extensive discussions with industry and associations including, but not limited to, the Housing Industry Association, the Master Builders Association, the Property Council Australia, Local Government Association Tasmania and the NMBA. Government continues to work with all stakeholders and they were included in the developing of the reforms.

Bill read the second time.

BUILDING AND CONSTRUCTION (REGULATORY REFORM AMENDMENTS) BILL (No. 2) 2020 (No. 39)

In Committee

Clauses 1 to 8 agreed to.

Clause 9 -
Schedule 8 inserted

Mr DEAN - I refer to subclauses 9(1) and (2). I defy anyone to read (2) and understand it -

Ms Rattray - The member has been here the longest.

Mr DEAN - Things like this can be written in plainer English. Can the Leader provide an explanation of what exactly this subclause means because it reads as -

> The amendments to this Act made by the amending Act do not apply …

I can understand that -

> and this Act, as in force immediately before the day on which section 27AF is inserted by the amending Act, applies, in relation to a case for assessment lodged under section 27F(1) before that day.

Maybe there is a simple explanation for what that exactly means.

Mrs HISCUTT - I will seek some advice, Madam Chair, but it is like the bill we did earlier. I will get a layman's point of view on what it means, but it is up to OPC how it drafts it too.

Mr Dean - This is not to criticise anybody that put it together.

Mrs HISCUTT - I know what the member is saying, but it is as it is because of OPC's drafting, but we will get a layman's explanation on what it actually means.

[3.36 p.m.
Mrs HISCUTT - In layman's terms, this particular section means amendments only impact on a case for assessment lodged after a certain date. This provision provides clarity to the EPA on whether the provisions of the bill apply in terms of an effective date. There is nothing we can do about the drafting, as you know.

Clause 9 agreed to.

Clause 10 agreed to.

Clause 11 -
Section 60 inserted

Mr DEAN - This has been discussed, and refers to the number of days. If you go through this part of the bill, we have no fewer than five different time periods. There is 20 days, 15 days, eight days, five days and two days -

Ms Rattray - And 10 business days.

Mr DEAN - Yes, 10 business days as well, so there are six. I missed one out; I probably missed others as well. It must be confusing to many people who are working closely with all these things under this Part in the Land Use Planning and Approvals Act.

What was done to try to bring some more consistency about these days? It seems there is not a big difference between 20 and 15 days. For ease, clarity and consistency, five days does not make much difference at all. Five, two and eight days - there is not a significant difference.

We said there was a lot of consultation on this bill, and it has been generally accepted, as I understand it, in relation to that. Could we have an explanation about why we went down this path of not trying to consolidate these days in a better way?

Then there are 42 days for other things, so there are other days as well. This is not the end of it.

Mrs HISCUTT - Realistically speaking, in a perfect world we would have loved to have drafted the bill with a common set of time frames for both decisions and RFIs; that would have been the best outcome. However, the end result here is a combination of consultation and compromise.

The varying time frames are not ideal, but are a far greater improvement on no time frames. Government, industry and regulators have found common ground, and the bill will render significant improvement.

Where consistent time frames could be achieved, they have been. For example, the eight days for RFIs basically resulted from compromise and negotiation with the department. Some said they could do it for this time. It was whatever they could manage.

Mr Dean - An effort was made to bring it together?

Mrs HISCUTT - Yes.

Clause 11 agreed to.

Clauses 12 to 14 agreed to.

Clause 15 -
Section 88 amended (Lodgement of final plans)

Ms RATTRAY - I have a couple of questions in regard to this. I have never embarked on a subdivision, but I am interested in a couple of areas. I would appreciate an explanation of clause 15, proposed new section 88(b) -

> by omitting from subsection (1)(d) 'is marked 'Early Issue;' and substituting 'is marked 'Priority Final Plan'';

My second question is in regard to proposed new section 88(c) -

> by inserting the following subsection after subsection (1):

It then goes on to list the various acts that need to follow 'constitutes relevant works'.

Are they all required? I note there is (d), which relates to the Urban Drainage Act. I am thinking about a rural subdivision where there are larger blocks of land - sometimes 5-acre blocks. They would not have urban drainage, so I am interested to know whether they all apply to a subdivision, or just the relevant ones.

It does say 'relevant works', but I want to just get that clear. I understand the electricity and the roads and jetties legislation - obviously, that is important. Local government (highways), the Water and Sewerage Act - actually, there are two water and sewerage acts - 'provision of a connection to water infrastructure', and 'works consisting of the provision of a connection to sewerage infrastructure'. Even though they are under the same act, they are separate. That is almost another question.

I am interested in that, because I know we do not have possibly as many larger subdivisions now. Builders or developers like to get as much value out of their land as they possibly can, so you do not see many 5-acre block subdivisions anymore - and obviously that has to fit under a planning scheme for any local government area. I am interested in the mechanics of that, because as I said, I have not had any personal dealings with subdivisions as such.

Ms HOWLETT - In relation to the member for McIntyre's question, clause 15, proposed new section 88(b), the LTO is working through the bill and seeks to update the language. The existing process for issuing titles for subdivisions was termed easy early issue. The Lands Titles Office wanted to frame the new statutory process as a priority final plan in order to distinguish between the old and new. These terms relate to the processing of new subdivisions.

Mr VALENTINE - My question relates to the entities listed in this clause, on page 23 of the current bill paper. Why are gasworks not included? That seems a little odd to me. Gas can be structures and things that need to be delivered to a subdivision.

Ms HOWLETT - In response to the member for Montgomery's question, I did not respond to your question on proposed new section 88(c).

Ms Rattray - I was not going to make an issue out of it, Deputy Leader.

Ms HOWLETT - In relation to the member for McIntyre's question, they do not all apply - only relevant ones. I will seek advice for the member for Hobart's question.

In answer to proposed new section 88(c), the member for Hobart's question: gas is not part of the building and construction approval process. Gas has its own act that applies.

Clause 15 agreed to.

Clause 16 -
Section 89 amended (Approval of final plans by council)

Mr DEAN - This clause refers to -

> the Recorder of Titles within 13 business days, may-

Why do we have 13 days? It is an unusual period to have in any clause. Normally, it is either a week, five days, 10 days, 15 days. Here we have 13 rather than 15 days, three weeks. Could I have an explanation for that?

[3.58 p.m.]

Ms HOWLETT - In relation to '13 business days' in clause 16, the Recorder of Titles explained to government during the consultation phase that processing of titles is an iterative process. As such, the Land Titles Office wanted to use as much of the 15-day decision-making to make the RFI request for information.

We limit the RFI to 13 days so we would not get an RFI on the last day before a decision.

Clause 16 agreed to.

Clauses 17 to 19 agreed to.

Clause 20 -
Section 29 amended (Special permits to take wildlife)

Ms SIEJKA - The second reading speech clearly states that -

> … the Secretary of DPIPWE should be able to assign a timeframe to the permit, relevant to the nature of the project …

Does this mean that they would, or they must? How does that happen? Is there a permit in the sequence of events issued by the secretary of DPIPWE? Does that have a time frame? What happens if that is different from the four-year time frame? Sorry about the convoluted question - I can ask it again. It was raised in the other place, but I do not know if we had clarity on that one.

Ms HOWLETT - In relation to the member for Pembroke's question on clause 19, the permit will be issued by the secretary based on the expected duration of the project. The provision in the act provides an absolute maximum limit by way of a safeguard. It is expected that permits will generally be issued for less than that four-year period in the bill.

Mr VALENTINE - I am a bit curious about this aspect as well. I am wondering whether there is any retrospectivity - I imagine there is not - under the changes to this particular act. It is also about plants. I am fascinated by the fact that it is going from 12 months to four years. Why four years? That is an interesting question. I know we are all aware of the seals issue that came to light recently -and that was four years after the event in 2016.

Are these changes to the Nature Conservation Act only in relation to building aspects? Clearly, it seems to be not. It is a general thing, and I wonder whether some explanation could be given about the four-year time frame. It could perhaps even refer to things like culling kangaroos, or the taking of kangaroos or deer. It could be any activity, as opposed to what this bill is dealing with. I am fascinated as to why four years was chosen.

I am also fascinated about what sort of plants might be taken over that time that need a special permit.

Ms HOWLETT - In relation to the member for Hobart's question, there is no retrospectivity as a staged development may take considerable time to construct. Four years equates to a standard planning permit time frame, plus another two-year extension. However, it will be determined by the length of the project.

Plants must not be a threatened species. It is inevitable that plants will be impacted by development, which is why they are included.

Mr VALENTINE - Basically I was asking whether this is a generic change to the Nature Conservation Act, which allows it to be applied in all sorts of other ways, as opposed to just the Building Act?

Ms HOWLETT - Yes, it will apply to all special permits issued. However, it must be noted that each permit is carefully considered by the Secretary of DPIPWE. The criteria and decision-making process have not changed.

Mr VALENTINE - I appreciate the information that has just been provided but the impact of this change needs to be fully explained from all angles where this Nature Conservation Act may be applied. To just put it in here on a building bill - which is fine when you are dealing with subdivisions and the like; I can understand why there should be a reasonable extensive time - but the impact of this is far wider, and it concerns me. I suppose it is very difficult to have a question about that concern. We have just been told it is a general change. I suppose the question I could ask -

Ms HOWLETT - I am waiting for a question, yes.

Mr VALENTINE - Do you have to have a question?

Ms HOWLETT - That would be good.

Mr VALENTINE - Why should I not be concerned about the general nature of this as opposed to what it is? I do not know that I can expect an answer to that. I think I am going to vote against this particular amendment.

Ms HOWLETT - The current requirement frequently requires the same permit to be repeatedly applied for, and consequently issued, where activities occur over a period greater than one year. The purpose of the amendment is, therefore to -

(a) bring the element of the Nature Conservation Act 2002 in line with the rest of the act, its subordinate legislation and related legislation allowing for the take of wildlife; and

(b) reduce the unnecessary administrative burden on applicants and those responsible for issuing special permits.

Mr DEAN - You have probably answered some of these questions. I might have missed that. I am interested in why this amendment appears in the Building and Construction (Regulatory Reform Amendments) Bill. You may have mentioned this in relation to the member for Hobart's questions, but has there been discussion with wildlife organisations about this clause in this bill? Is it a requirement they have wanted for a specific reason? Who has

been involved in this discussion? Who wants this amendment and what is it designed to do? We have gone, as the member for Hobart said, from a short period of time to a four-year period - from 12 months to four years, which is a huge increase, a 400 per cent increase - and this deals with specified protected plants also.

Mr Valentine - It is not only about building.

Mr DEAN - No, it is not. I would appreciate some answers to those questions.

Ms HOWLETT - Member for Windermere, each permit has a provision for a date time frame that needs to be completed on each form. This will not change. This is an omnibus bill and the constant need to go back to DPIPWE for a new permit was identified as a general red tape issue.

Madam CHAIR - Question is that the clause as read stand part of the bill?

The Committee divided -

AYES 10	**NOES 2**
Ms Armitage	Mr Valentine (Teller)
Mr Dean	Ms Webb
Mr Gaffney	
Ms Howlett	
Ms Lovell	
Ms Palmer	
Ms Rattray	
Dr Seidel	
Ms Siejka	
Mr Willie (Teller)	

Clause 20 agreed to.

Clauses 21 to 26 agreed to and bill taken through the remainder of the Committee stage.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for the next day.

ARCHITECTS AMENDMENT BILL 2020 (No. 6)

Second Reading

Resumed from 15 October 2020 (page 85).

[4.25 p.m.]

Ms RATTRAY (McIntyre) - Mr President, although the Leader is not in the Chamber, I thank her for complying with my request that we have a briefing, which was very much appreciated. I also thank my colleagues in the Chamber for supporting the adjournment last

Thursday week, because I had indicated I was not prepared to move on, but knew other people were - thank you for allowing me to do that.

I read this bill with interest because I recently read a couple of media articles where interestingly, the Ombudsman had been very critical of the Board of Architects of Tasmania. The second reading speech said the amendments put forward in the bill were the second amendments made since the bill actually became operational. They are the first amendments to the Architects Act since 1984. It has been a while since the principal act has actually been amended or looked at, which was why the Board of Architects responded to the Ombudsman's criticism. I will read from a newsletter sent out - the first newsletter, I believe. I have a contact with the architects board and I appreciate him making the time to come and chat with me about being an architect and belonging to the Board of Architects.

Ms Forrest - Board or institute?

Ms RATTRAY - It is called a 'Board of Architects' here, and then they call themselves 'elected to the institute'. Their letterhead says 'Board of Architects of Tasmania', but then they refer to being elected to the institute. Let us call them the institute.

Mr Valentine - The institute is the members and the board is the governing body.

Mr PRESIDENT - They are a very well designed board, I imagine.

Ms RATTRAY - After a very critical Ombudsman's report on the functions of the board, I am not surprised they put out a newsletter talking about why they had not responded to the Ombudsman. The newsletter talks about the Ombudsman's report, that the board's powers under the Architects Act 1929 to deal with complaints are limited and outdated. It says the board has been endeavouring to have the act amended since the 1990s with no success and it blames -

> The process has been complicated by changes to ministers and government, the introduction of the Building Act in 2000, followed by the amendments to the Occupational Licensing Act in 2016.

I would say they are just trying to pass the buck, using them as an excuse for not responding. The board is using those as an excuse not to respond to a complaint. Highly unethical, I suggest. The most interesting part of this newsletter that was sent to architects or members of the institute is that -

> The board has resolved to take, accept all the recommendations in the Ombudsman's report and to action them as soon as practical. Changes to the complaints procedure will be finalised when the Architects Amendment Bill 2020 is enacted. This will include setting time frames for each stage in the process and improved reporting to the complainant.

It goes on to talk about the bill passing the Assembly on 18 August and the bill being listed for the second reading in the Legislative Council. I am pleased they did not assume that just passing in the House of Assembly was final, which is a plus. It goes on -

> There are currently 539 architects registered in Tasmania. Postal addresses: four overseas, Northern Territory have two, ACT three, WA seven, South Australia nine, Queensland 34, New South Wales 78, Victoria 124 and Tasmania 278.

It is interesting that they are registered in Tasmania, but they work elsewhere - I think would be the rationale behind that. I would be interested to know whether that is the case. It lists 539 architects and then goes on to say their postal addresses as shown - they were the ones provided.

I will touch on the CPD a little later on that. Out of interest, we will provide members with an update as well on the Ombudsman's report. There was a report in both the *Examiner* and the *Mercury* but I found this was the really interesting one.

When the Ombudsman became involved and tried to make contact with the institute through the board, he was critical of their communication, and they have now changed their server. The board blamed the problems in part on a new email server, although the Ombudsman noticed he was also unsuccessful in reaching the board by telephone or mail.

I am not sure what the board has been doing - asleep at the wheel, I expect. It then goes on to talk about the board's communication in relation to complaints being very poor. It has been difficult for my office, the Ombudsman or a complainant to elicit any response from the board by phone, email or letter.

As I said, it has now changed its email address. It must be answering its emails. The board appears to be ignorant of or unwilling to fulfil its responsibilities to assist my office with inquiries and investigations in accordance with the Ombudsman Act.

The Ombudsman also went on to say - and I think it was probably in the other media article - that he had never had to issue a notice to go to the office and investigate. That was the first time that the Ombudsman had to do that -

> The board eventually responded after I took the highly unusual step of issuing a notice of intention to enter its premises which my office has never previously been required to do.

We are going to talk about the board and the structure of the board in this bill because I have some questions about why we still have the same structure of that board in place given what I have read and what the Ombudsman has provided.

I will move to the board and then I will go back to the CPD scheme under that and the other parts of the bill, Mr President.

It talks about the changes affecting the Board of Architects in Tasmania and it updates the provisions for allowing the board to establish what are necessary formal qualifications or required examinations to be registered as an architect in Tasmania, and this also allows for consistency of registration requirements with other jurisdictions. I understand that.

It also provides simplification of procedures for the election of two members of the Australian Institute of Architects, who are then eligible to be appointed to the board. The institute will manage its own elections rather than following the unnecessarily prescriptive

requirements currently in the architects regulations. I suggest they probably need some regulations to work by, given what I have shared with members. Other members have probably also done their homework on this. Why would this board, which has been noncompliant, be allowed to go off and do its own thing? I really do not understand.

What are the models the board might be able to use to carry out its duties, because this is a paid board. This is not a voluntary show. This is paid, and the member for Windermere will ask the Deputy Leader in his contribution how much the board costs, because I believe he put that on notice yesterday - the cost of the board; how many times they meet. We want to know what it is doing, because it is certainly not answering complaints. That is a question I have.

Another area worth looking at is compliance with the CPD scheme. In the second reading speech, it talks about the CPD must undertake a minimum of 30 hours each year, comprising formal study, technical training, business skills and personal development. I absolutely understand that. It says most architects would already be achieving these development activities through normal work activities or their membership with the Australian Institute.

I asked my architect contact and he said reading material is classed as compliant and then the face-to-face opportunities. We know there are not a lot of face-to-face opportunities for peak bodies or any organisations to meet at the moment. The newsletter provided to institute members talks about registration renewals and the continuing professional development of architects. It tells me that in accordance with the AACA/RAIA joint policy on continuing professional development, CPD, the expectation is architects will complete at least 20 hours per year. Because of COVID, it goes on to say that at least 10 of these hours of CPD is required to be formal CPD. We understand, but that has been reduced from the 30 hours it says in the second reading speech to 20 hours. What is the situation? Obviously, this has been sent out recently to all members. As I said, first time in years and years.

Then it says that for the 2020 reporting period, architects should undertake a minimum of 15 hours of CPD instead of the 20 hours, for which again 10 hours must be formal CPD activity due to the impact of COVID-19. That was a decision of the board. What is the actual requirement? Is it 30, 20 or has the board just decided to set 20? Obviously, there is a reduction given we have the COVID requirements. I am interested in that.

A graduate is not legally permitted to practice unless registered as an architect and after completing a degree in architecture they are also required to undertake a period of practical professional experience, prior to being able to apply for registration. In the briefing this morning I asked, given that sometimes it is difficult to get into the industry to even gain the experience to then be registered, how does that all work, and it is worth putting on the public record? We received a reasonable response from the director this morning.

Ms Forrest - Rest assured, most architects will take a lowly paid intern to do the grunt work. That is how they get their year's experience. They get low pay and do all the grunt work.

Ms RATTRAY - Have you ever heard of people not being able to access that practical -

Ms Forrest - They do the grunt work. They are employed by the architects -

Ms RATTRAY - Even getting the start -

Ms Forrest - That is how they get the start.

Ms RATTRAY - Your apprentice hairdresser sweeps the floor and washes people's hair for months. When you start as an apprentice, it takes a while to work up.

Ms Forrest - In the old days of junior nursing, you used to clean the pan room.

Ms RATTRAY - I am interested in that. Architecture is a very popular degree and I am pretty sure the architecture degree is in Launceston.

Another aspect of the bill that will make a big difference - and it stands people to attention - is that one of the criticisms is that the board really has no teeth and could not impose penalties. Around $200 was the penalty, not a huge deterrent for somebody who might not be doing what we consider the right thing. The fines have increased to a maximum of $21 000, so that should sort the wheat from the chaff. That is a reasonable approach.

It is appropriate to have that information put on the public record, given that we are dealing with the Government's arrangements through this piece of legislation. The act was last amended in 1984. If it takes that long again, with the churn of ministers, departments and any other excuse the institute can find to use, we need to make sure we get things right now.

I have some concerns around the Government's arrangements. The Government should be working with some sort of model and not going it alone. That is where I sit at this time and I will be interested in the responses of the Deputy Leader as she sums up the debate.

[4.43 p.m.]

Ms FORREST (Murchison) - Mr President, in many respects this is a bill that has been a long time coming. The principal act was proclaimed in 1929, and things were a little bit different then. Mind you, Spanish flu was around in similar times in some respects.

I see this as a genuine action to put in place a professional, robust system where architects are effectively held to account under a similar arrangement to all other professionals who are required to operate under occupational licensing.

I remember when we were dealing with that legislation; one of the points architects raised at the time was that they would be different, and they had their own processes for CPD, and they had their own processes for registration, and so I understand at that point - and this is going back to my memory of the discussions around that time - it was deemed unnecessary to bring them into that framework. But it was clear at the time that some work needed to be done.

I know not everyone has engaged an architect to do work. I certainly have, and I think when you have worked with an architect, you see the difference it makes. Yes, you pay for it, but the style, the design and the work they do is actually quite extraordinary, particularly if you have a very complicated build. Having them manage the project, yes, it costs you money, but the return on investment is significant. If you do a cost-benefit analysis, I would say they are actually good value for money, from my experience.

We have some very successful and renowned architects in this state who do some amazing work. As the Leader said last time we sat, and in the second reading speech, a number of Tasmanian architects have won big national awards, and that is great. They tend to develop their own style, I guess.

Also, in referring to the member for McIntyre's comment about new graduates getting a position, that is the case with a lot of professions. Sometimes it is not easy to get in, whether it is medicine, law or whatever. You have to do an internship. You work really hard to get yourself in a position where you will be employable, but you will start at the bottom of the pile. You start at the lowest rate of pay, you do all the grunt work, you do all the work the others do not want to do. They are off with their designs, meeting with the clients and doing all the nice airy-fairy stuff - well, not airy-fairy, but the high-level thinking and art - and they will be doing the hard grunt work, and there is plenty of that to be done.

Maybe there are some who might struggle, but if you are working really hard during that period of doing your degree, you always have your mind to that, because you know that is the deal, that is the rule.

There is a need, I believe, to build confidence through a properly structured and functioning board that oversees the work and practise of architects.

As the Leader said in her second reading speech, the bill is first about all architects' registration boards are to implement a 'fit and proper person' test for all persons who want to be registered as an architect. They have huge responsibility - you have to make sure the building stands up and looks nice. You could have designs that look really nice, but structurally are likely to fall over. You do not want that, clearly.

Mr Valentine - You do have engineers involved.

Ms FORREST - Yes, you do have engineers involved as well. Some of the engineers and architects butt heads a little, and I have seen a bit of that.

Mr Valentine - They do.

Ms FORREST - Appropriate powers to monitor the performance of architects and investigate complaints: I heard the member for McIntyre's comments around some of the failure to do that sort of work under the current arrangements, so clearly it does need to change.

I know there is the regulation-making power in the principal act. There is a minor amendment to it, taking out one aspect that is no longer relevant because of this bill. I am sure there will be much more detail about the structure and operations of the board in the regulations. Can the Deputy Leader confirm that?

That is where a lot of the detail around how the board will be constituted - how it will work, how it meets, that sort of thing - because it is expected, certainly from my perspective, that it will be a skills-based board. You will have the necessary skills - including, obviously, architects' skills - but I also expect there would be legal skills and finance skills as well. I am not sure, so I am interested in what sort of skills would be required on that board. They do have a range of important tasks to do.

The other matter was that all registered architects must undertake a mandatory program of continuing professional development activities, and they are to be covered by professional indemnity insurance. That is a no-brainer. All other people working in an occupational licensing space have to do CPDs. Nurses have to do CPDs, teachers have to do CPDs, doctors have to do CPDs; it is just what you would expect.

I know the Institute of Architects did its own CPD for its members and the majority of architects in the state were members, but it should be compulsory for all of them regardless, of whether they are a member of the institute or not.

The board can actually initiate complaints itself if it has a concern. From the way I read the second reading of the bill, it can be like a no motion-type thing. It can also deal with complaints made by consumers about an architect's work or their conduct, which is not just their work, it is the way they conduct themselves. It is important they can do both and also in disciplinary matters. I expect this board will have the necessary teeth and support to enable them to follow through on these actions and put in place sanctions where they are warranted, which could include removal of their licence to operate or practise - I expect that would be one of them. That would be the most serious result I imagine from such a process.

In many respects it is a modernising of an act that was well overdue. Matters of professional misconduct will now be dealt with in the Magistrate's Court rather than the Supreme Court. The members will recall we recently dealt with the court backlog bill. The judicial system or the Justice department reviewed all, or a significant number of, matters that should be brought before the Magistrate's Court rather than the Supreme Court for ease of getting things dealt with in a timely manner. If there are matters, this will add to the Magistrate's Court workload. You hope there would not be many matters that would be required to come before court. I certainly acknowledge the additional workload and pressure on the courts - both the Supreme Court and Magistrate's Court- during the COVID-19 crisis, but this is a bill that will last hopefully much longer than that.

Overall, it seems to be an appropriate structure. I would like the Deputy Leader to answer a few questions.

I am a little sad to see the disappearance of the 'infamous and improper conduct' - that is quite quaint, being replaced with 'professional misconduct' but I guess that is the way of the world these days. The 'fit and proper person test' replacing the term of 'good fame and character'. Really, who would not want 'good fame and character'? Anyway, we must move on, we cannot be stuck in 1929, but they are quite quaint terms, and it is important to acknowledge the passing of an age.

I support the overall intent of this legislation and look forward to the Deputy Leader's response to some of the matters I have raised.

[4.53 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I welcome any legislation that brings Tasmanian building designs, surveying and regulatory laws in line with other jurisdictions and makes things easier and safer to get done.

Legislation that governs topics like building and design is by its very nature quite complicated, as it has to be a balancing of a multitude of interests. Of course, safety of people should be of the utmost priority and this is amplified when talking about building and construction. Worldwide we have seen too many instances of corner-cutting or negligence that have resulted in injury or death.

The Building Confidence or Shergold-Weir report has in its comprehensive inquiry into Australian building laws and codes across all jurisdictions much to say about the varying

standards they meet. I have become quite intimately acquainted with this report, in the context of registration requirements for building surveyors and the standards they are expected to meet in Tasmania, compared to the standards in other states. While that is a work in progress, I am encouraged the Government has taken this report seriously and is applying some of these recommendations to the Tasmanian architecture industry.

Pertinent to this point is recommendation 13 of the Shergold-Weir report, which emphasises the importance of architects' role and expertise in ensuring construction and designs look good and function well while complying with national safety and construction standards.

As the report points out and I quote -

> Schemes regulating architects do not expressly require architects to prepare documentation which demonstrates that the proposed building will comply with the NNC [National Construction Code].
>
> Poor quality documentation leads to builders improvising or making decisions which may not be compliant with the NCC ... Inadequate documentation can also result in hidden costs or allow builders to cut corners without owners being aware of it.

This addresses two of the major issues which this bill contends. The first is to ensure that the architecture profession has greater guidance to adhere to the vital safety standards that already govern the vast majority of the building and construction sector.

The second issue addresses the array of expectations that consumers and clients of architects can expect their project to be held up to. To this end, mandating compulsory, ongoing professional development and the purchase of professional indemnity insurance go a long way to protecting consumers, clients, owners and the architects themselves. It is not unreasonable to ask this of architects, given that we ask this of those working in many other industries and it brings Tasmania in lock step with other jurisdictions.

As mentioned in the Government's second reading speech, most architects would already be meeting these development requirements through normal work activities or through their membership of the Australian Institute of Architects. As a slight caveat, feedback I have received on this indicates this provision might also be met through completing professional development activities with other organisations, such as the Association of Consulting Architects. I therefore wonder how widely the Government consulted with bodies that can conduct CPD and what is deemed to be sufficient learning for the purposes of meeting ongoing CPD requirements.

It seems to me that by allowing multiple industry organisations to provide CPD programs, competition is generated and quality of learning is increased and more tailored. I gather certain criteria would have to be met, but on that point, how will this be monitored? I know these questions have been asked in some capacity or other, but some clarification would be appreciated.

Moreover, empowering the Board of Architects Tasmania to receive and investigate consumer complaints against an architect brings a greater level of confidence to the industry and those who engage with it. This is very much a step in the right direction. Could the Deputy

Leader give an indication about how this would be funded and monitored on an ongoing basis, given the expanded role the board will now be taking on?

While I have every faith that the Board of Architects has the expertise and experience to implement these new functions, I wonder if there are certain key performance indicators or similar that the board will need to meet to ensure that the bill is being implemented as intended. It is excellent to see that Government is taking the Shergold-Weir report's recommendations seriously and is looking to make appropriate legislative steps.

Architects I have spoken to agree that this bill is good in substance but they have raised questions about the practicalities of its implementation and review. I support this bill and hope to see further government consideration of the other recommendations contained in the Shergold-Weir report, particularly as they apply to building surveyors and the Tasmanian Building Act.

This is a step in the right direction but as far as good governance and regulation of the building and design industry more generally, there is much more work to be done in Tasmania. I am pleased to see Mr Graham sitting there and perhaps I will send you another email regarding that meeting we might have with some in the industry to further it?

[4.58 p.m.]

Mr VALENTINE (Hobart) - Mr President, in relation to this whole issue of the act and, of course, some of the issues the Institute of Architects seems to be going through at the moment, I thought I would read in part of its newsletter as part of my offering. Sent out on Monday, it is basically saying that they are well aware of the circumstance -

> The Institute on behalf of members has been in contact with the Board of Architects Tasmania to get an update in relation to the recent Ombudsman's report. The Board of Architects Tasmania has advised that they have provided a response to all registered architects in Tasmania via their newsletter -

The member for McIntyre read some of that in -

> and have resolved to take on board all recommendations made in the report as soon as practical. As noted in the Ombudsman's report the board's powers under the Architects Act 1929 to deal with complaints are limited and outdated. The Institute will continue to advocate for the updates to the Architects Act. These amendments were moved through the House of Assembly in August 2020 and are now listed for review by the Legislative Council.

Indeed we are doing it today -

> Again we will continue to update our members in relation to this issue. These changes will be a positive move forward for our profession and will provide the Board of Architects Tasmania with a capacity to operate in a stronger and more decisive manner.

I thought I should read that in. They are not here to speak for themselves, but this gives some indication that they are onto it. One hopes indeed that we see some improvements in that space.

I find nothing in this bill that is any cause for concern whatsoever. It seems to me to be all positive. My only query is that we have an act of parliament to basically look after the institute and its operations, or the board and the governing, if you like, of architects, but a private enterprise body is to keep the register. I find that curious.

It may well be that other professions have acts of parliament, and indeed they keep their registers. I found it interesting that there is an act of parliament and yet parts of it, very important parts, are governed outside government. There is no involvement in keeping anyone honest, if I can put it that way, apart from the occasional audit they might get, I guess.

I am wondering whether that is normal, whether there are any other professions that have the same sort of circumstance. It will be interesting to hear the responses in relation to that.

The bill is quite significant in terms of what it covers and one hopes we do have a well-functioning board and body of architects in this state. A lot of people rely on them, a lot of people trust them. I am sure individual architects out there who belong to the institute would have been quite concerned when they read the Ombudsman's reports in relation to how their matters were being dealt with. As I have read in their newsletter, they are committed to seeing change so this bill will update things; it will help the industry, if you like, perform.

I support the bill.

[5.03 p.m.]

Mr DEAN (Windermere) - Mr President, I support the bill. It is about bringing the Architects Board into this century. When you look at the legislation currently in place, there must have been some amendments at some stage because it is a 1929 act. If you look at some of the penalty sections and so on it is now in dollars, so there has obviously been changes. In 1929 we were in shillings and pence, so it has gone ahead.

They have certainly modernised some of these areas because I tell you now: if you get a summons to appear before the board, please do not neglect it because the fine has gone from $20 up to - what is the penalty unit now? About $130-something?

Mr Valentine - It is $172.

Mr DEAN - It is $172. Well, the penalty for not appearing is probably up around the $20 000 mark. That is what it would be -

Ms Rattray - Is there any penalty for the board not appearing?

Mr DEAN - No, the penalty for you if you are summonsed to appear before it and you do not appear or you are not going to give evidence -

Ms Forrest - Failure to respond to a summons.

Mr DEAN - Yes, it has certainly gone up a bit.

Ms Forrest - You will front up.

Mr DEAN - You will. It is to change over the other things. There were no 'hers' operating as architects back then, so it now brings all of that gender-neutral terminology into place. The other members and I have referred to a number of questions but I am not going to ask them here. It is better I ask them during the Committee stage when the department members are with the Deputy Leader at the table. I will leave until that stage to ask those questions but I certainly support it all.

[5.07 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - In response to the member for McIntyre, the difference between institute and board. The Institute of Architects is the industry body for architects. Architects are able to join the institute by payment of a fee. The institute represents the interest of architects with government and also runs continuing professional development for architects. The Board of Architects is the regulatory body established by statute. The board has five members, three of whom must be members of the institute.

In relation to the remuneration of the board, currently the sitting fees of the board are set by the act. A member of the board should be paid a fee of $5 for each meeting of the board, he or she attends.

Members - Five dollars?

Ms HOWLETT - That is what I have here in front of me. The fee so paid to any one member during any period of 12 months shall not exceed $50.

Proposed in the bill, the regulation-making powers of the act are expanded to allow updating of the payments for board members for sitting fees and the reimbursement of travel costs. As a statutory board, any proposed board member fees will have to be determined and approved by DPAC before they are made as regulations. The board meets six times a year and more frequently if required.

Ms Rattray - Thirty dollars for the year.

Mr Dean - In 1929 that was a lot of money.

Ms HOWLETT - That is true. You had a question, why does the bill retain the architects' board given concerns raised by the Ombudsman? The bill is not a major reform bill. Instead, it seeks to update and modernise the existing regulatory arrangements. The bill was drafted in 2019 and introduced in March 2020. This is before the concerns raised by the Ombudsman came to light. The bill significantly enhances the complaint handling powers of the act, including enabling the board to initiate investigation and compel responses from registered architects.

Why do architects require work experience for registration? The act requires applications for registration to meet skills and experience requirements. This includes qualifications as well as work experience requirements. Requiring work experience is a standard requirement in many licensing and registration systems, including traditional trades and health professions.

Architects are required to complete and sign a declaration that they have completed the required hours of CPD activities. A statutory declaration is not required by the board.

Member for Murchison asked what penalties can be issued by the board. The board will make a decision regarding the complaint. If not dismissed, the board can impose sanctions on the architect, including: caution or reprimand; an order to undertake extra CPD or formally restricting their registration status; or suspending registration or cancelling of registration.

In response to the member for Launceston, the CPD requirements will be a matter for the board. It is not the intention that the architects' institute have a monopoly or provision of CPD and expect that many bodies will be able to apply.

The Board of Architects of Tasmania is entirely self-funding and it has advised the Government that it has sufficient funds received from registration fees for it to be able to perform the compliance and disciplinary functions included in the amended bill.

The board has also advised that it has financial capacity to investigate complaints without needing to substantially increase its current fee registrations.

Ms Forrest - The skills on the board, that was the one I asked about.

Ms HOWLETT - In relation to skills on the board, the broad make-up proposed in the amended bill is five members, as follows -

(a) The President of the Institute [Australian Institute of Architects, Tasmanian chapter].

(b) two persons appointed by the Governor, at least one of whom is recommended by the minister as representing the interests of consumers;

(c) two practising architects elected by the council of the [Australian] Institute [of Architects] in a manner determined by the council.

The non-architect members of the board are appointed by the minister. This would typically follow an expression of interest process which sets out the skills that are required.

The bill does not set the continuing professional development requirements. Instead, the bill gives the power to the board to set CPD requirements. It is expected that the architects' board will consult on CPD requirements prior to the requirement being set.

In relation to the member for Hobart's concerns, the board is established by the Architects Act 1929 and sits outside direct ministerial oversight. However, the minister appoints two of the five board members. Other regulations structured like this include the Property Agents Board and the Teachers Registration Board.

I thank all members for their contribution.

Bill read the second time.

ARCHITECTS AMENDMENT BILL 2020 (No. 6)

In Committee

Clauses 1 to 5 to agreed to.

Clause 6 -
Section 4 amended (Constitution of Board)

Ms RATTRAY - Madam Chair, I appreciate the responses that were provided from the second reading speeches around the constitution of the board. I was a little surprised, and I need to retract what I said about the board being paid. They are being paid - but at $5 a sitting fee, I thought that was almost tokenistic. It is certainly not a highly paid board sitting fee -

Mr Dean - They are 1929 figures, so I do not know what it is now.

Dr Seidel - It is $5.

Mr Dean - Still $5?

Dr Seidel - Yes, it is.

Ms RATTRAY - That was quite a surprise, so I take back my insinuation that it was -

Ms Lovell - Yes, no wonder.

Ms RATTRAY - But they do receive costs to go with that, so it is not just $5 for their time. Still, $5 six times a year is $30 on top of their costs.

I note from the Deputy Leader's response she talked about the constitution of the board and it is composed of five members - two elected by the institute. Currently it is Richard Crawford, Chairman; and Daniel Lane, the president of the Tasmanian chapter of the institute; Shamus Mulcahy; and two appointed by the Governor - Katherine Parker and one current vacancy for which a recommendation has been to the minister.

Is that the person who will represent the consumers on the board? I want to have that on the record: the appointment waiting to be made by the minister is the person, and when is that likely to be made?

Also, with regard to the model or the parameters under which the board works - is there going to be a template for that? Obviously, they have a lot of new elevated responsibilities with significant penalties attached, and the member for Windermere spoke about those. So, just those couple of questions with regard to the board.

I was very surprised to hear there was only a $5 fee for sitting, it is almost a volunteer board, except for their costs, so good on them.

Ms HOWLETT - I thank the member for her question. Yes, the vacancy will be filled by a member representing the interests of consumers. The vacancy will be filled probably on the royal assent of this bill.

Mr DEAN - I will ask the question I asked in the briefing sessions. In 1929, it was deemed a board was necessary. Moving on nine years shy of 100, is it now the best position to have a board in place for this one area to fit with architects? We do not have boards for builders, plumbers, electricians and boards for all these other organisations and businesses and so on. We are modernising this act; we are trying to straighten things up and get it right. We do not have boards for home designers and I suspect there would be more home designers in this state than architects. That fits under another statute, an act. Has that been considered and, if it has, what is the position in relation to it?

Ms HOWLETT - Thank you for your question. In preparing this legislation we did not undertake a full governance review of the act. Instead, the Government sought to modernise and enhance existing arrangements. Other boards like the architects' board include the Property Agents Board and also the Teachers Registration Board.

Clause 6 agreed to.

Clause 7 agreed to.

Clause 8 -
Section 9 amended (Register of architects)

Mr VALENTINE - It is in regard to that last answer the Deputy Leader gave. It involves the Registrar and keeping of records and like. The Teachers Registration Board was given as an example. I thought the Teachers Registration Board was wholly within government, as opposed to being a body outside of government. It is in relation to the Registrar and the keeping of records and whether those records should be inside government, as opposed to being outside government.

Ms HOWLETT - Thank you for your question, member. The architects' board and the Teachers Registration Board are similar in that they are both established by statute and are not under direct ministerial control. This is different from regulators which sit within government such as the Director of Building Control, who is accountable to the minister.

Mr VALENTINE - Following on from that. With respect to the operations of the board then, because it is under an act, does that mean the Auditor-General has the opportunity to examine the register and those sorts of things to make sure it is complying, even though the register is outside of government?

Ms HOWLETT - Yes, that is correct.

Clause 8 agreed to.

Clause 9 -
Section 11 substituted

Mr DEAN - I discussed this during the briefing and what we do in the briefing is not in *Hansard.* Unfortunately, I need to raise it again here. This is where a cancellation has been made in error and the error being corrected, and the registration being reinstated gives the opportunity for that. What is the cost of registration in this? What is the process for an architect to go through for registration and other examples of where this might have occurred, or is it

simply there as a safety net to ensure they do not have to register twice if an error has been made?

Ms HOWLETT - In answer to your question, member for Windermere, the act provides a pathway for registration. To become an architect an individual applies to the board. The individual must demonstrate they have qualifications and work experience before they can be registered. The power to reinstate is a safety net in the event of error, otherwise an applicant would need to apply again. We are currently looking up the cost for registration and we will get back to you on that.

Clause 9 agreed to.

Clause 10 -
Sections 12, 13, 14, 15, 16, 17, 17A, 17B and 18 substituted

Mr DEAN - I refer to page 11, clause 13(3). Why is it written the way it is? If you look at the bracketed area there which says -

… (or, in effect, cancelled) …

Something is cancelled or it is not. Why it is written in brackets in that way - what is it there to pick up? When we talk about -

… (or, in effect, cancelled) …

it is either cancelled or it is not. I am not sure if you can go halfway, but you must be able to.

Ms HOWLETT - Thank you, member for Windermere. This provides for the circumstance where another jurisdiction uses different language in their act for cancellations. For example, some states have 'deregistered', so this removes all doubt with regard to the intent of the clause.

Clause 10 agreed.

Clauses 11 and 12 agreed to.

Clause 13 -
Part IVA inserted

Ms RATTRAY - Clause 13(5) talks about -

A person who is professionally competent to be registered as an architect if -

(a) the person -

(i) holds the architectural qualifications that are prescribed by the regulations; or

(ii) has successfully completed a course of study that is recognised by the Board as meeting criteria prescribed by the regulations for the purposes of this paragraph; and -

Then it goes on to talk about -

(b) the person has -

(i) passed an examination or interview, arranged or approved by the Board, to assess the person's competency to practise architecture; and

(ii) paid any fee, set by the Board, for that examination or interview.

It does not say anything about that practical experience that -

Ms Armitage - What page are you on?

Ms RATTRAY - On page 12, Determination of application.

Ms Armitage - That is clause 10. They are all the substitutions of 12, 13, 14, 15, 16 and 17 at the top of page 10. Top of page 10 substitutes all those sections, and the section you are reading is one of the substitute sections in clause 10.

Ms RATTRAY - Thank you very much for pointing that out, honourable member. It is not terribly clear, is it? I will try again at another clause, Madam Chair.

Clause 13 agreed to.

Clauses 14 to 18 agreed to.

Bill taken through the remainder of the Committee stage.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for the next day.

TABLED PAPERS

Answers To Questions on Bills

[5.42 p.m.]

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) (by leave) - Mr President, members may recall during the debate on the Tasmanian Civil and Administrative Tribunal Bill 2020 and the Justice Miscellaneous (Court Backlog and Related Matters) Bill 2020, the Leader undertook to provide answers to questions asked by the member for McIntyre and the member for Windermere.

I table the answers to those questions.

ADJOURNMENT

Ms HOWLETT (Prosser - Deputy Leader of the Government in the Legislative Council) - Mr President, I move -

> That at its rising the Council adjourn until 11 a.m. on Thursday 29 October 2020.

Motion agreed to.

T21 Bill

[5.44 p.m.]

Mr DEAN (Windermere) - Mr President, I need to make an important statement in relation to T21.

The T21 bill has been on the Notice Paper now for two years. During that time, a huge amount of work has been completed to ensure members have everything needed to make an informed decision on the bill, including research conducted by the Menzies Institute, which clearly demonstrates the merits of T21. Open briefings have been provided on the findings of this research over the past few weeks, and additional briefings were held last year on the outstanding results that T21 has achieved overseas.

This year has been hard on us all, and tragically the COVID-19 pandemic has claimed the lives of 13 Tasmanians. While this is a heartbreaking outcome, in the past year 560 Tasmanians have died from smoking-related illnesses, yet we have not put anywhere near as much effort into prevention of tobacco-related diseases as we have into our COVID-19 response. The World Health Organization has just announced that countries and governments need to be working to reduce smoking rates in the face of this pandemic as smokers are far more likely to die from COVID-19.

With one of the worst smoking rates in Australia and the continued threat of this pandemic, it is time for Tasmania now more than ever to take decisive action to prevent young people becoming victims of the deadly smoking addiction. This bill is about preventing the addiction of new smokers, reducing smoking rates in Tasmania and, over time, alleviating our state's health burden. Saving Tasmanian lives should be the number one priority of government. Measures that have this merit like T21 should obtain bipartisan support. I have made this position very clear to the Premier and Opposition Leader.

In response, the Government has asked that I delay the second reading of the T21 bill to conduct further briefings with Cabinet and party members. Whilst the postponement to commit to a position on this bill is disappointing, I am prepared to delay this bill to early 2021 so that no one can claim they have not had the opportunity to be informed of the facts and consulted on the contents of this bill. This is not the first time this bill has been delayed at the request of the Government but it is my hope it will be the last.

I challenge all members of parliament to show leadership on this issue and ensure you take this opportunity to understand the facts and speak with our state's leading health bodies. Likewise, please reach out to me about any questions or amendments you would like to raise.

We are judged by our actions in this Chamber and we must not condemn our health system or the next generation of Tasmanians to the legacy of smoking.

The Council adjourned at 5.47 p.m.