Thursday 22 November 2018

The President, **Mr Wilkinson**, took the Chair at 2.30 p.m. and read Prayers.

ROADS AND JETTIES AMENDMENT (MANAGEMENT OF STATE HIGHWAYS IN CITIES) BILL 2018 (No. 54)

First Reading

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

QUESTIONS

Libraries Tasmania - Room Hire Fees

[2.33 p.m.]

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

Mr President, recently it was brought to my attention that Libraries Tasmania branches are requiring community not-for-profit groups - for example, a local Country Women's Association group in my electorate - to pay room hire to hold a meeting. In this instance, there is no requirement for equipment to be provided and the group has always made a donation to cover the cost of tea and coffee.

(1) What is the reason behind this policy direction, considering it states on the Libraries Tasmania web page 'Meeting rooms at your library', under 'Fees', that 'Providing a service for the community in line with our goals'?

(2) Are the goals to disadvantage non-for-profit community groups that raise valuable funds to distribute to deserving members and groups of our communities?

(3) Can the minister please indicate who approved this policy?

(4) Is this a statewide initiative or only for some community groups that unfortunately live in areas where Libraries Tasmania has imposed these unreasonable costs on community and not-for-profit organisations?

ANSWER

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

(1) and (2)

Libraries Tasmania has two different room hire rates - community use and commercial. The community use rate applies where a hirer is a not-for-profit organisation, such as a local CWA group. Libraries Tasmania does not make money from community use of its meeting rooms. The fees help to maintain them. The rates assist in recovering actual costs incurred such as

utilities, upkeep, cleaning and maintenance. This is line with the community use of other Department of Education facilities.

(3) Room hire rates were revised in 2014-15; prior to that rates were unchanged for nine years, while the basic cost to operate and maintain them increased significantly over that time. The revised rates saw only a minor increase for community groups from $5 to $6 an hour. The Education minister approved the implementation of the revised room hire charges, which included consultation with community groups.

(4) Rates are applied Tasmania-wide.

Former Minister for Police, Fire and Emergency Management - Meetings with SIFA Representatives

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

[2.36 p.m.]

During the last term of the Hodgman Liberal Government from 2014 to March 2018 -

(1) Did the then minister for Police, Fire and Emergency Management, Hon. Rene Hidding MP, have any meetings or communications with any members or lobbyists of the Shooting Industry Foundation of Australia - SIFA?

   (a) If so, where and when were the meetings between the then minister and representatives, members or lobbyists for SIFA held?

   (b) What written or digital communications occurred between the then minister and/or his officers or representatives and members or representatives of SIFA, and what was the nature of these communications?

(2) Despite the fact that the Tasmanian division of the Liberal Party discloses donations received in accordance with the Australian Electoral Commission requirements that apply to political candidates and parties, did then minister Hidding receive any funding at all or in-kind support towards the 2018 election campaign? If so, how much?

ANSWER

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

(1) Following a meeting with a representative of the Tasmanian Deer Advisory Committee who introduced a representative of SIFA, the former minister for Police, Fire and Emergency Management invited the SIFA representative to attend meetings of the consultative committee. All subsequent meetings with a representative of SIFA were conducted as part of the formal consultative committee meeting. There was no engagement between the former minister and SIFA outside the consultative committee.

(2) As previously advised, this is a matter for the Tasmanian division of the Liberal Party which discloses donations received in accordance with the Australian Electoral Commission requirements that apply to political candidates and parties.

TT-Line - Cost of Community Service Obligation

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

[2.38 p.m.]

The TT-Line Company's 2017-18 annual report states on page 75, under Note E5, Community Service Obligation, that -

> On 8 June 2016, the Tasmanian Government agreed to formally recognise up to $890,000 per contract year of the cost of the Company's 2017 to 2021 North Melbourne Football Club sponsorship as a Community Service Obligation (CSO), as defined under the Government Business Enterprise Act 1995 (Tas).
>
> This represents the difference between the commercial value of the sponsorship to the Company and the total cost of the arrangement. No funding for this CSO will be paid by the State government.
>
> During the year ended 30 June 2018, the Company incurred a cost of $890,000 (2017: $445,000) in relation to this CSO.

(1) Please provide a layman's interpretation of this statement.

(2) What enables this amount to be recognised as a CSO as distinct from a commercial sponsorship arrangement?

(3) What is the benefit of recognising this figure as a CSO as opposed to sponsorship?

(4) What is the full commercial value of the sponsorship referred to in the annual report for both the 2017 and 2018 years?

(5) Why has there been a twofold increase in the value of the CSO in the last two financial years?

(6) How much was paid by TT-Line in both cash and in kind to the North Melbourne Football Club for 2017 and 2018?

(7) If the claim is made that this information is commercially sensitive, how can this be the case when the monetary value of other sponsorship and partnership deals with other football clubs are fully disclosed?

ANSWER

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

(1) The implementation of an approved community service obligation policy is integral to the enhanced performance and accountability of GBEs under the Government Business Enterprise Act 1995. GBEs are expected to improve performance by focusing on commercial goals. This means non-commercial activities and functions, not all of which may qualify as community service obligations, will need to be clearly identified, justified and separately accounted for. This comes from the Treasurer's Instruction, GBE 13-114-04.

The CSO in relation to the North Melbourne Football Club agreement with TT-Line includes the establishment of the North Melbourne Football Club Huddle, which will assist with education and training of disadvantaged youth throughout Tasmania, a statewide youth AFL academy and a youth women's academy.

These are all non-commercial activities and are recognised and accounted for separately as a CSO and are noted in the members' statement of expectations signed off by the shareholders.

(2) The policy implementation guides for GBEs in respect to the treatment of CSOs are set out in the Treasurer's Instruction, GBE 13-114-04.

(3) It recognises the company's and shareholders' agreement to participate in non-commercial activities for the benefit of the Tasmanian community, which is noted and signed off in the members' statement of expectations with the company.

(4) This is commercial-in-confidence.

(5) The amount accounted for in 2016-17 financial year recognises only six months of the agreement. The 2017-18 financial statement recognises a full year of the agreement.

(6) This information is commercial-in-confidence. Please note that at the outset of the current agreement between the North Melbourne Football Club and the TT-Line, the chairman and chief executive officer of TT-Line provided the Legislative Council government administration committee with a briefing in an in camera session. This was at the request of the Legislative Council on the 21 September 2016.

(7) It should also be noted that TT-Line has an agreement in place with the North Melbourne Football Club which has a specific clause to keep any commercial information confidential. Release of this commercial information would likely expose the North Melbourne Football Club to competitive disadvantage. The North Melbourne Football Club competes with Hawthorn and other sporting organisations in the Tasmanian market place for corporate sponsorship and government support. Any specific information made publicly available would impact on the North Melbourne Football Club's competitive position, not only with Hawthorn, but with other sporting codes and potential funding and sponsorship partners throughout Australia. Furthermore, it would prove detrimental in the North Melbourne Football Club's commercial dealings with other government bodies both within and outside Tasmania.

Roadworks - Murchison Highway Upgrades

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

In answer to a previous question regarding the deterioration in condition to recently upgraded sections of the Murchison Highway, the Leader responded -

> The cause of the rapid surface deterioration is not yet clear and is being actively investigated by the department and the construction contractor. Initial indications are the deterioration could be due either to material quality or to contractor workmanship.

The Leader further stated -

> Once the cause of the failures is known, responsibly for the costs will be determined in consideration of all factors contributing to the failure including, and in addition to, defective work.

(1) Has the cause been identified?

(2) If so -

(a) what is the cause?
(b) who is responsible for meeting the costs of full repair?

(3) If not, when is this information expected to be provided?

(4) What are the outcomes of the departmental review of its construction specifications and quality assurance processes, which the Leader referred to, that was to be undertaken to identify and manage any deficiencies that may have contributed to the recent surface deterioration?

(5) Is the same contractor responsible for the upgrades and work undertaken on the Highland Lakes Road?

(6) Is this work also to be reviewed, as it is also unacceptably deteriorating?

ANSWER

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

(1) The contractor is still investigating the cause of the surface deterioration and will communicate to the department when the investigation has concluded.

(2) (a) The exact cause is not known at this stage.

(b) As previously described, the road seal failures arising from inadequate construction by the contractor are being addressed as defects to be repaired at the contractor's cost.

(3) The investigations on the cause of the surface deterioration have not concluded and therefore at this time I cannot advise further.

(4) The department is currently reviewing the procedures to ensure that compliance with the specifications is applied consistently by the contractors. This is an ongoing process. Recent improvements include -

- specification amendments with clarification of the climate selected for seal design calculations appropriate to Tasmanian conditions

- specification amendments with clarification of the skills, expertise and qualifications for persons undertaking the role of quality assurance verifier

- Austroads' recent release of an updated seal design guide

- increasing the auditing of construction contracts with a focus on pavement and sealing works.

(5) No.

(6) Yes. The seal deterioration on the Highland Lakes Road roadworks has also been the subject of a review with no clear link between the two matters identified.

Egg Island Point Management

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

[2.46 p.m.]

Egg Island Point at Windermere attracts many visitors, including locals, and has been undergoing much preservation work over the past two to three years - four to five years perhaps. Some of that work has seen the blocking of access to some areas of the point. Will the Leader please advise -

(1) What is the future position for picnickers and tourists regarding access to the point?

(2) What work remains to be done on the point?

(3) If any, what is it?

(4) How much money has been spent on preservation and making safe work on the point over the past three-year period?

(5) What consultation has taken place with local people regarding the work being done on the point?

(6) If yes, what? If no, why not?

(7) Why did the department dump rubbish on a private member's property close by? That is another question I will ask at another time, but it raises some issues.

ANSWER

Mr President, I thank the member for Windermere for most of his questions.

(1) The Parks and Wildlife Service has undertaken improvements to prevent vehicles from driving through picnic areas and public spaces. The PWS has approached the George Town Council, the Hillwood Progress Association and local service clubs to ascertain their interest in providing assistance to adopt and improve facilities in the reserve. To date, there has been no community interest in supporting the PWS to maintain the reserve and the demand does not warrant development of additional facilities at this stage.

(2) The PWS will continue to undertake general maintenance activities associated with the recent revegetation project and maintenance, such as slashing and weed removal, as required.

(3) As above.

(4) The PWS has spent a total of $15 000 over the past three years. The expenditure has funded signage replacement, site slashing, installation of boulder barriers, rubbish removal and revegetation. Additionally, Corrective Services Tasmania has conducted mowing, brushcutting and weed management activities on an ad hoc basis free of charge.

(5) PWS has been in consultation and attended site meetings with, and provided advice regarding works to, the Hillwood Progress Association over the last few years. The association has specifically requested some of the works performed; however, it has not been supportive of other measures implemented by the PWS to manage antisocial behaviour and return the site to a more natural state. Other nearby residents are fully supportive of the management measures used by the PWS. The association is also concerned that the area is a fire hazard. This has been fully assessed several times by the Tasmania Fire Service and the PWS fire operations area, which advise that the site does not pose a fire risk.

(6) As above.

Roadworks - Mole Creek Road - Slip Lane

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

[2.50 p.m.]

Given the high volume of traffic movements and visitor numbers, in the order of 65 000 visitors per annum, to the Mole Creek Caves and the popularity of the Trowunna Wildlife Park, could the Leader, on behalf of the Minister for Infrastructure, please advise what progress has been made to address the necessary works to construct a slip lane adjacent to the entrance of the Trowunna Wildlife Park on the Mole Creek Road?

ANSWER

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

I can confirm that the Department of State Growth has conducted an assessment of the access to Trowunna Wildlife Park at 1892 Mole Creek Road and has provided advice that the access to 1892 Mole Creek Road is typical of most private rural driveways on the network. It is not provided with any formal turning facilities and right-turning traffic is expected to hold in the traffic lane if

there is oncoming traffic at the time. The access is wide enough to allow two-way traffic - that is, a vehicle waiting to exit does not impede the entering vehicle.

Mole Creek Road at this location has traffic volumes in the order of 2000 vehicles per day and is also subject to an 80 kilometres per hour posted speed limit. Sight distance for a following vehicle to observe a vehicle stopped in the traffic lane that is waiting to turn is normally 200 metres, which meets the required guidelines for an alert driver at the 80 kilometres per hour limit.

Notwithstanding that sight distances are typical of a rural road with this speed limit, a 'concealed entrance' warning sign is provided in advance of the access for westbound traffic. This sign may have been installed when the speed limit was previously 100 kilometres per hour, so there has been a risk reduction with the posting of the lower speed limit.

There have been no reported crashes involving vehicles using the access in the last five years. Widening the road at this location to allow a through vehicle to pass a right-turn vehicle would also involve private land acquisition. Taking into account the relatively low traffic volume on the Mole Creek Road, which means right-turning vehicles into the wildlife park access do not often need to wait for oncoming traffic, the risk of an incident occurring is lower than at many other sites on the state road network that could be upgraded with a right-turn facility. As such, the priority for any such works at this site is at a lower level.

Capeweed

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

[2.53 p.m.]

(1) What measures is the Department of Primary Industries, Parks, Water and Environment taking to address the proliferation of capeweed across our communities?

(2) Has the department been in discussions with local government areas in regard to this escalating weed problem? If not, why not?

ANSWER

Mr President, I thank the member for McIntyre for her question. I will answer what I have here and see how it goes.

(1) Capeweed is not a declared weed under the Tasmanian Weed Management Act 1999 because it is an established and widespread weed in Tasmania. Information on the control of capeweed is available on the department's Weeds Index web page under the non-declared weed section. Departmental officers are available to provide advice on its control and the appropriate use of herbicides. Those officers also provide control guides on request for a range of environmental weeds, including capeweed.

A key principle underpinning effective weed management in Tasmania is that of shared responsibility. Everyone in the Tasmanian community has a role to play in managing weeds on the land they own, including controlling weeds that, while established, may be posing a nuisance to others. The priority for compliance work under the act is to target those weeds that are either considered eradicable at a statewide or regional scale, or clearly threaten high-priority agricultural or environmental assets.

Preventing the establishment of weed species is the most cost-effective means of managing weeds, because eradication requires long-term investment with no guarantees of success. The 2018-19 state Budget included $5 million over five years for a new weed action fund to be invested with farmers, landcare groups and other community organisations to tackle weeds impacting on valuable agricultural land and environmental assets. A new Tasmanian weed advocate is being established to work in partnership with the department to identify the strategic on-ground priorities across land tenures and coordinate the funds.

(2) Has the department been in discussion with local government areas? Discussion between state and local government on weed management is focused on high-priority weed targets - that is, those that can be prevented from establishing or are considered irradicable. Approximately two-thirds of councils have officers authorised under the Weed Management Act 1999. The department supports councils by providing authorised officer training. Council priorities for weed management are determined by the councils themselves, although this is often in consultation with the state Government.

Roadworks - Tasman A3 Highway - Lay bys

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

[2.56 p.m.]

I hope I will get some positive response from my fourth question. Following up from a question asked in May this year about roadworks to facilitate safe overtaking areas in the form of lay bys on the Tasman A3 Highway and signage as part of the Great Eastern Drive, can the Leader, on behalf of the minister, please advise -

(1) What is the status of the proposed junction improvements between Dianas Basin and St Helens that were to commence this financial year?

(2) What is the status of the identified construction of the Cherry Tree Hill passing lane at Glen Gala in the member for Prosser's electorate?

(3) What consultation with stakeholders has been undertaken for future upgrade and improvement works for the Great Eastern Drive?

(4) What other locations have been identified for these works to the Great Eastern Drive's very important area?

ANSWER

Mr President, I thank the member for McIntyre for her question. I seem to have one long answer so it might cover all the member's questions.

(1) to (4)

The junction upgrades south of St. Helens include locations between St Helens and Scamander. The tender for the development of four junction upgrades was issued in August along with the Glen Gala overtaking lane. A construction contract for these works has been awarded to Fulton Hogan. The junctions to be upgraded this financial year are located south

of Dianas Basin and are at Beaumaris Beach, Dark Hollow Creek, Freshwater Creek and Skyline Drive. The junctions scheduled to be constructed north of Dianas Basin are located at Flagstaff Road, Basin Creek Road and Dianas Basin. The junction upgrades located north of Dianas Basin will be progressed with road improvement and overtaking facility projects between St Helens and Dianas Basin as a package of works. The aim is for this work to be commenced next financial year.

With regard to the Cherry Tree Hill passing lane at Glen Gala, the tender for the development of this overtaking lane was issued in August and a construction contract has been awarded to Fulton Hogan. Construction work on this overtaking lane is scheduled to commence on 26 November 2018.

Community consultation on further upgrade works located along the Great Eastern Drive commenced on Tuesday, 20 November 2018. Feedback has been invited on ideas and suggestions for turning facilities at entries to popular tourist locations, pull-over areas for slow vehicles and vehicles stopping at scenic locations, and road-widening locations. General community feedback is being sought through Facebook, a social pinpoint page on the Transport website or direct communication with the project manager.

Once upgrade locations are identified, further consultation will occur with stakeholders as individual projects are developed. I hope that is a more satisfactory answer for you.

JUSTICE AND RELATED LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2018 (No. 35)

Third Reading

Bill read the third time.

BUILDING LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2018 (No. 27)

Consideration of Amendments made in the Committee of the Whole Council

Resumed from 21 November (page 27)

Amendments agreed to.

Bill read the third time.

CRIME (CONFISCATION OF PROFITS) AMENDMENT BILL 2018 (No. 34)

Second Reading

[3.01 p.m.]

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

That the bill be now read the second time.

Mr President, this bill introduces a number of amendments to improve the operation of the unexplained wealth forfeiture provisions that are contained within Part 9 of the Crime (Confiscation of Profits) Act 1993. These are non-conviction based wealth forfeiture laws.

The genesis for these laws arises from meetings of the former Standing Committee of Attorneys-General held in 2009. At that time, it was agreed that the introduction of non-conviction based confiscation or forfeiture laws, or 'unexplained wealth' laws, with mutual recognition across borders would be of great assistance in combating organised crime.

The fundamental principle of confiscation legislation is that people who engage in unlawful activity should not profit from breaking the laws of society, and the specific focus of the unexplained wealth forfeiture laws contained within Part 9 of the act is on all those who profit from crime, whose wealth is unexplained and cannot be linked to a crime or crimes of which they are charged and convicted. These laws are squarely aimed at people who apparently live beyond the income provided by their lawful occupation or investments - that is, they appear to have available to them quantities of 'unexplained wealth'.

Part 9 of the act commenced on 1 March 2014. It introduced processes to examine a person's wealth, and if the person cannot account to the Supreme Court for the acquisition of their wealth by lawful means, the court will make an 'unexplained wealth declaration'. This has the effect of making the person liable to the state for a sum of money equal to the value of the unexplained components of the person's wealth.

It also contains provisions relating to, among other things -

- restraining, forfeiting and valuing property
- investigations
- searches
- applications and declarations
- a requirement for an independent review of Part 9 of the act.

The independent review of Part 9 of the act was undertaken by former Tasmanian and Commonwealth Director of Public Prosecutions, Mr Damian Bugg AM QC in 2017. Mr Bugg's *Report of the Independent Reviewer* (the report) was subsequently tabled in both Houses of parliament on 17 August 2017.

The report has been considered and the bill introduces the majority of the recommendations of the report, as well as a small number of additional amendments that were identified during consultation on the bill.

Consultation was undertaken with key government agencies, the Director of Public Prosecutions, the Public Trustee, the legal profession, civil liberties groups and the Australian Banking Association.

The key amendments to Part 9 provide for the following matters.

Clubs and Associations

The report identifies that currently there are impediments to investigating and pursuing the unexplained wealth of clubs and associations and associated office holders.

This is because section 85 of the act, which reverses the onus of proof that wealth is not lawfully acquired, only applies if it is a constituent of a person's wealth. While it is possible to argue that a 'person' extends to a club or association, the report suggested that this should be put beyond question.

The report also identified that where a club or association has unexplained wealth on its premises, there will not always be records such as bank statements to assist with the investigation of the club or association. In some cases it may be necessary to investigate an office holder where, for example, money is found in their office at the club. The report also notes that some clubs do not have written rules or receipt books and it is not always possible to formally identify who is responsible for the finances of the club.

The bill amends section 80 of the act to clarify that where a requirement is made or obligation held by a body of persons, such as an incorporated or unincorporated club or association, it is also held by each person within that club or association to the extent that the person can fulfil their requirements or satisfy the obligation given their actual or apparent authority within that club or association.

Obtaining information from financial organisations

The report identifies that while it is clear that section 87 notices can be used to discover the existence of relevant information that is held by financial institutions, it is not entirely clear that the actual content of bank statements of the person being investigated can be obtained under this section.

This has been problematic for investigations because once the existence of information has been confirmed, the Director of Public Prosecutions must then obtain a search warrant under section 111 of the act in order to obtain more specific information. However, no time limit is provided for the financial institutions to comply with the warrant and this has caused undue time delays with investigations.

The provisions which apply to government business enterprises under section 88, on the other hand, make it clear that the DPP may require financial institutions to provide all records, information, material and things in the custody, possession or control of the organisation.

The bill amends section 87 by clarifying that the Director of Public Prosecutions may by written notice require financial organisations to provide any record, information, material or thing that may be relevant to unexplained wealth proceedings or persons specified in a notice.

A number of additional minor amendments are made to section 87 to give effect to this requirement.

Scope of examination orders

The report identifies that there is a restriction on the use of examination orders under section 92, such that examination orders currently can only be used to examine someone about another person's financial affairs. The report notes that this provision is unnecessarily restrictive.

The bill extends the operation of examination orders to allow for a person to be examined about whether his or her own wealth is lawfully acquired.

The report also recommends that section 92 be amended to provide for a person to be examined to allow for the identification of who has control of property and how it was acquired.

Section 92 does not currently allow for a person to be examined about the nature, location and source of property that is subject to a restraining order or the identity of a person who may have possession or control of relevant property or documents.

The bill provides that a person may be examined about the nature, location and source of property that forms or may form part of the wealth, liabilities, income and expenditure of a person who has or is suspected on reasonable grounds of having wealth that is not lawfully acquired.

It also provides that a person may be examined about the identity of any person who may have the possession, control, custody or management of particular wealth, liabilities, income and expenditure and property-tracking documents.

Scope of production orders

The use of document production orders under section 97 are currently restricted to documents that relate to another person. That is, they do not allow the person who is the subject of unexplained wealth proceedings to be required to produce documents that are relevant to their own wealth. This makes section 97 of the act unnecessarily restrictive.

The bill amends section 97 to clarify that document production orders may also apply to the subject of unexplained wealth proceedings.

Restrictions on use of evidence

Another impediment which was identified in the report, is that it appears that Part 9 unintentionally restricts the use to which evidence gathered from examination orders and production orders may be put.

The report notes that while the purpose of these types of orders is to obtain evidence for unexplained wealth declarations, Part 9 appears to limit the use of information obtained under these orders to facilitating the identification of such property, rather than allowing it to be used to elicit information such as proof of ownership, control of property and how it has been acquired.

The bill extends the provisions relating to the admissibility of statements or disclosures made by persons to allow for statements and disclosures that have been made by persons, including the subject of unexplained wealth proceedings, to be used for proceedings under the act that may lead to the forfeiture of property.

The bill also extends the provisions relating to the admissibility of information contained in a property-tracking document or statement or disclosure made by a person in complying with a document production order to allow for those documents to be used for proceedings under the act that may lead to the forfeiture of property.

Time limits on interim wealth restraining orders and wealth restraining orders

Under Part 9 of the act, an unexplained wealth application may be made after a wealth restraining order has been issued. The time that is available for an unexplained wealth declaration

application to be made by the Director of Public Prosecutions following a wealth restraining order being issued is currently a maximum of 21 days.

The report identifies that 21 days is insufficient time for the Director of Public Prosecutions to properly analyse the amount of unexplained wealth of a person.

The report recommends that the decision be left to the discretion of the Supreme Court at the time the order is made, subject to a provision enabling the court to require the Director of Public Prosecutions to give an undertaking on behalf of the state to pay damages if any application is not proceeded with.

The bill provides that the Supreme Court may only make a wealth restraining order if satisfied that the Director of Public Prosecutions intends to make an unexplained wealth declaration application within a reasonable period that is not less than 21 days.

The bill further provides that the Supreme Court may refuse to make a wealth restraining order if the Director of Public Prosecutions refuses or fails to give to the court such undertakings as the court considers appropriate in relation to the payment of damages or costs, or both. This provision ensures that the person who is the subject of the order is not disadvantaged if the Director of Public Prosecutions subsequently chooses not to make an unexplained wealth declaration application.

A similar problem under Part 9 of the act has been identified in relation to interim wealth restraining orders. Under Part 9, an interim wealth restraining order may be sought where there is an urgent need to ensure that property is preserved.

Currently under the act, the court may only make an interim wealth restraining order if it is satisfied that an application is to be made for a wealth restraining order as soon as is reasonably practicable. Further, an interim wealth restraining order lasts for just three days, excluding Saturdays, Sundays or statutory holidays. Again, this time frame does not provide the Director of Public Prosecutions with sufficient time to make proper inquiries.

In order to address this issue, the bill provides that an interim wealth restraining order lasts for three days, excluding Saturdays, Sundays or statutory holidays, or for a further period as the court specifies.

In order to ensure that the person who is the subject of the order is not disadvantaged if the Director of Public Prosecutions subsequently chooses not to make an application for a wealth restraining order, the bill provides that the court may refuse to make an interim wealth restraining order if the Director of Public Prosecutions refuses or fails to give such undertakings as the court considers appropriate in relation to the payment of damages or costs, or both.

Recovery of fees and expenses by Public Trustee

The report also notes that while it appears that the Public Trustee is entitled to charge the usual capital commission-based fees and to claim reimbursement for the cost of pre-sale valuations under the act, if that is not the case, the Government may wish to put the question beyond doubt.

In order to provide clarity around this issue, the bill amends the Crime (Confiscation of Profits) Regulations 2014 to provide for the Public Trustee to be reimbursed for any reasonable costs or

expenses incurred as a result of having control or management of property under Part 9, in circumstances where those costs or expenses have not already been reimbursed.

While sections 169 and 37 are intended to work together to provide a mechanism for the Public Trustee to recover fees and costs for work performed, the use of inconsistent terminology has been problematic. This is because section 37 adopts the phrase 'custody and control of property', whereas Part 9 adopts the phrase 'control and management' of property.

To address this issue, the bill also makes minor textual amendments to section 169 to ensure that wording that is used in Part 9 is consistent with the wording that is used in sections 35, 36 and 37 of the act.

Finally, in order to remove all doubt and in order to respond to suggestions made in the report about clarifying the intention of both Part 9 and the Crime (Confiscation of Profits) Act 1993 more broadly, I reaffirm that it is the intention of the act that criminal and civil proceedings may proceed concurrently.

I also reaffirm that it is intended that the unexplained wealth forfeiture laws contained within Part 9 of the act may apply to people who apparently live beyond the income provided by their lawful occupation or investments. Importantly, it should be noted that to date, these laws have only been used when individuals have been identified in the course of drug trafficking, money laundering or other investigations where large sums of money have been seized or wealth has been identified. Further, the use of strict protocols and procedures that have been developed by the Director of Public Prosecutions and the requirement for orders to be made by the Supreme Court ensures that ordinary citizens have not been affected by these laws.

In concluding, it is worth noting that between 9 October 2015 and November 2017, approximately $2 200 000 has been forfeited to the Crown under Part 9. This is a promising start for these laws given that Part 9 has only been in operation since 1 March 2014, and some provisions have not yet been utilised because of the impediments which will be rectified by this bill. I also wish to point out that to date, all unexplained wealth orders have been made by consent and there have not been any challenges to the operations of the act or the work of the Criminal Assets Recovery Unit.

The Government is confident that the provisions of the bill will further improve the operation of the unexplained wealth forfeiture laws in Tasmania. More importantly, however, these reforms will assist with preventing the unjust enrichment of those who seek to profit from crime at society's expense.

I commend the bill to the House.

[3.22 p.m.]

Mr DEAN (Windermere) - Madam Deputy President, I support the bill. The principal act has been working well without these amendments to it. These amendments will probably make it much better and much easier to work with. We should see more property being reclaimed and being forfeited to the Crown and to the people. That is a good thing. The second reading speech identifies that, to date, $2.2 million has been forfeited to the Crown in a bit over two years. I think about eight actions complement the amount of property recovered.

No contestant actions show that the legislation is being carefully used. Concerns were raised during the debate on the legislation some time ago about how it would operate and that there would be overreactions by the unit responsible for policing this by being too harsh. It seems that none of that has happened. If it has happened, we do not know about it or they have not told us about it. The fact that the Law Society and the Australian Lawyers Alliance have not seen fit to come back about this legislation indicates that things are going well and are hunky-dory, and that is good.

The changes before us, if supported, should see more of these ill-gotten gains taken possession of and forfeited back to the state.

The really smart criminals are not easily caught up with. They really are not. Thank goodness not all are blessed with a smart criminal mind. Many involved in big crimes brag about it, they have loose mouths and they cannot help but tell people. It is a thing they have to do. Or they pull a bank job and the very next day, without any funds being known to them, they go out and buy a brand-new car. That is the sort of thing that happens and police like to see happen.

The smart criminals, the ones who sit back, do a lot of the organising, in particular with drugs. We see people at the top of criminal activity with very high profiles and good positions involved in organising and setting crimes up, and this legislation is about picking a lot of these people up.

As legislators we have an obligation to provide the tools necessary to combat crime and maintain law and order. We need to ensure legislation is contemporary and keeps up with the necessities to protect the people and the state, and, where possible, to out-think the crooks and try to keep a step ahead of them.

The amendments will add to that bill and will give extra police positions the unit needs to police this legislation.

The former Tasmanian and Commonwealth Director of Public Prosecutions, Damian Bugg AM QC, is without doubt one of the top, most experienced lawyers in the country, certainly in this state. He told us that these changes are necessary to contemporise the legislation and make it stronger. Those who are involved in criminal activity at any level, not only the gofers, but those at the top of the chain, are more likely to be exposed and caught. He was given the function and duties of reviewing this act, and this is what he has come back with.

We were given this material during the briefing yesterday, for which I thank the Leader. Where recommendations brought forward by Mr Bugg, by police and others were not seen to warrant further change, it was explained legislation is currently available to pick it all up. It is good to see an explanation being given in that regard.

In the briefings we were told our legislation aligns to some degree with that in Western Australia and Northern Territory, so there is legislation operating and, in all states and territories, there is similar legislation, operating similar to ours.

Stakeholder consultation was lengthy. That is a question we always ask; I have no doubt we will ask it next week if certain legislation comes into this place. We have been given a full list of stakeholders who have been consulted. We raise that in this place time and time again, but this has to be done. It is an important part of any amendment legislation coming into this place, and it is good to see it has happened here.

Interestingly, the Law Society, Australian Lawyers Alliance, the Tasmanian Bar in particular and some others have not come back when we are dealing with non-conviction based wealth forfeiture laws. It surprises me even more that these people have not come back to us with a position on this. I would have thought they might have. No conviction is necessary. To me, that is a very interesting aspect of this. It indicates very strongly they are quite happy with it. The department is to be commended on the way in which it has brought these amendments and this legislation to us. I will support the amendments because they are necessary.

[3.30 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Deputy President, some questions were put forward through the briefings. I would like to get the answers on the *Hansard*.

Clauses 13 and 14 were amendments to section 116, on the interim wealth restraining order, and section 118, on the wealth restraining order. The question was about damages available to the respondent for loss of reputation where a restraining order and unexplained wealth declaration order are subsequently not made against the respondent. If the DPP refuses or fails to give to the court such undertakings as the court considers appropriate with respect to the payment of damages or costs or both, it may refuse to make a restraining order. How will this provision work?

During the briefing of the bill, the member for Murchison asked whether damages would be available under the amendments to sections 116 and 118 for the loss of reputation, for example, where a respondent's name is made public and they subsequently lose their job. It is intended that the amendments made under sections 116 and 118 of the Crime (Confiscation of Profits) Act, which provide that the court may refuse to make an interim wealth restraining order or wealth restraining order if the DPP, on behalf of the state, refuses or fails to give to the court such undertakings as the court considers appropriate, with respect to the payment of damages or costs or both, will operate in the following way: the damages and/or costs that could be made under part 9 of the act will be determined by the terms of the undertaking that is given by the DPP if the court considers the undertaking to be acceptable in the circumstances. The undertaking likely to be given by the DPP under part 9 is that he - at the moment - will undertake to pay damages and/or costs that flow from a restraining order being made if a restraining order and unexplained wealth declaration are subsequently not made against the respondent. If the court determines this undertaking is acceptable and an unexplained wealth declaration is not made, it will be up to the respondent to make a claim for damages and/or costs and to provide the court with evidence of this. This could potentially include damages for loss of reputation.

If the court does not consider the terms of the undertaking to be acceptable in the first place, it may refuse to make the restraining order. It is worth noting that these cost and damage provisions mirror the wording of the cost and damage provisions that apply under section 27(7) of the act to conviction-based orders. Similar undertakings have been successfully used for conviction-based orders. It is also worth noting that restraining order matters under part 9 are currently dealt with privately in chambers. This provides respondents with some protection against loss of reputation at the restraining order application stage.

It is important to point out that part 9 of the act does not currently have this safeguard in place for respondents. This is a new safeguard. It will ensure that respondents are not unfairly disadvantaged in the event that a restraining order and unexplained wealth declaration are subsequently not made against the respondent.

The other question, from the member for Windermere during the briefings, was: how many applications have been dealt with under Part 9 of the act? Seventeen unexplained wealth declaration applications have been finalised since Part 9 commenced operation. All applications have been dealt with by way of consent. The total amount forfeited under Part 9 since its inception is $2 228 000 450. In the last three years, over $3 million has been forfeited under the Crime (Confiscation of Profits) Act. Over $2 million of that was forfeited under Part 9.

Two unexplained wealth declaration applications under Part 9 are still pending.

Bill read the second time.

CRIME (CONFISCATION OF PROFITS) AMENDMENT BILL 2018 (No. 34)

In Committee

Clauses 1 to 12 agreed to.

Clause 13 -
Section 116 amended (Interim wealth-restraining orders)

Mr DEAN - Madam Chair, clause 13 amends section 116 by inserting subsection (4A), which says -

> The Magistrates Court or Supreme Court may refuse to make an interim wealth-restraining order under subsection (3) if the DPP, on behalf of the State, refuses or fails to give to the court such undertakings as the court considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and operation of the order.

My question about this is around the DPP. As I understand it - I could be wrong - the DPP normally does not have an overseeing role of many matters coming within the Magistrates Court. I am not quite sure what matters under this legislation would come before the Magistrates Court as it specifically refers to the Magistrates Court or Supreme Court. Can I be given an explanation around that?

If that is so, does the DPP retain an oversight role? It is he - and it is a 'he' at this time - who has to give that undertaking to the court relative to the payment of damages or costs.

My other question - and it was presented in the briefing yesterday but perhaps we can put it on *Hansard* - is that at that time clearly there would be, I take it, a clear position, or a fairly clear position, on what damages could well be in all the circumstances? If the DPP is going to commit to a payment of damages and costs he would need to understand a little about what they might well be in all the circumstances, so I guess he would act very carefully. If I could be given the explanation we were given yesterday during the briefing it would satisfy that.

Mrs HISCUTT - The Magistrates Court only has a role in respect of interim wealth restraining orders. The DPP has a role in respect of providing sufficient advice. The responsibility for commencing proceedings under the provision is placed with the Director of Public Prosecutions. The DPP is required to apply to the Supreme Court for authority to conduct each step in the

investigation and search processes, except that the DPP is able to issue notices without a court order to financial and other specified institutions to produce records and information related to investigating unexplained wealth matters and conducting unexplained wealth proceedings. The undertaking likely to be given by the DPP under Part 9 is that he will undertake to pay damages and/or costs that flow from a restraining order being made. If a restraining order and unexplained wealth declaration are subsequently not made against the respondent, the amount of damages and costs will be determined by what the Supreme Court determines is acceptable in the circumstances.

Second question: what damages would the DPP be liable for? The DPP would understand, ahead of time, what he or she was undertaking to pay. If the risk of damages or potential damages was too high, the DPP would be unlikely to give an undertaking. For example, if a fishing boat was restrained, the DPP would understand the likely damages for lost business. The DPP makes that call.

Clause 13 agreed to.

Clauses 14 to 18 agreed to and bill taken through the remainder of the Committee stage.

EMERGENCY MANAGEMENT AMENDMENT BILL 2018 (No. 25)

Second Reading

[3.48 p.m.]

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

That the bill be now read the second time.

The purpose of the bill is to make a number of amendments to the Emergency Management Act 2006, which provides for the protection of life, property and the environment in the event of an emergency, establishes emergency management arrangements in Tasmania, and provides for certain rescue and retrieval operations.

The Emergency Management Act 2006 has been under review since 2012. Progress was halted at times due to awaiting the outcomes from a number of independent or government-led reviews of emergency events, such as the 2013 bushfires and the 2016 floods. The outcomes of these reviews have in turn been utilised to inform the review into the act.

Of particular significance was the independent review of emergency management arrangements undertaken by the Department of Justice from late 2014 to 2015. That review reported 52 recommendations, eight of which had implications for the Emergency Management Act. Also, the review of recovery arrangements that followed the 2016 floods.

Drafting commenced in March 2017, following the recovery review, and I am pleased to report the amendments being introduced today will achieve all eight recommendations of the Department of Justice review that relate to this act.

All state and local government agencies are key stakeholders in this legislation and, consequently, they were heavily consulted throughout the review process and also during the drafting of the bill.

I will now provide details on the amendments proposed under the Emergency Management Amendment Bill 2018.

The amendments will create a standing ministerial emergency management committee, chaired by the premier. Provisions will include membership, functions and powers of this committee.

The process for the expedient authorisation of emergency powers will be simplified by providing the option to authorise all of the emergency powers to a specified authorised officer if the type of powers required are initially unclear, but urgent attention using emergency powers may be required at short notice.

The authorisation of emergency powers will be more forward-looking and will be available in the event an emergency 'is likely' to occur. This will be achieved by reinforcing one of the preconditions that there need only be a significant threat of an emergency event, which aligns with the existing definition of 'emergency'.

With regard to declarations of a state of emergency, the amendments will also reinforce that there need only be a significant threat of an emergency event for a declaration of a state of emergency by the premier. Additionally, a new declaration of a state of alert by the State Emergency Management Controller will provide more of a graduated scale of emergency and an ability to be more forward looking and pre-emptive.

Also, with regard to declarations of a state of emergency, section 42(1)(b) will be removed from the act to further simplify the preconditions for declaring a state of emergency by the premier. This means that the premier need not concern him or herself whether emergency powers alone will be insufficient to manage the emergency. All other preconditions remain, such as the existence of an emergency or threat of an emergency, and that special emergency powers may be required.

The amendments will better reflect the reality of municipal roles and capabilities, by including in the functions of municipal emergency management coordinators and municipal recovery coordinators, the establishment and coordination of evacuation centres and recovery centres. New municipal-level recovery provisions, such as functions and powers of a municipal recovery coordinator and some expanded roles for municipal emergency management coordinators, have also been included to provide greater clarity on municipal-level roles. Provisions for municipal emergency management plans will remain, which provides all other municipal emergency management roles and responsibilities.

The amendments provide a new division covering the administration of recovery. They make new provisions for a state recovery advisor, a recovery task force, recovery committees, state recovery coordinator, municipal recovery coordinator and provisions for the transition of responsibility from a regional or state emergency management controller to the relevant recovery authority. The division includes applicable functions and powers and is aligned with the Interim State Recovery Plan.

In support of speedy and effective recovery, the amendments will include a new emergency power to remove debris from, or demolish, premises affected by an emergency. The power, once

authorised by the State Emergency Management Controller, may be exercised if, in the opinion of a specified authorised officer, the removal or demolition is necessary to avert an emergency, or to minimise the possibility of aggravating an emergency. The existing reasonable notice provisions for exercising this power shall apply. This means that up to three days written notice must be provided to any occupier, unless the occupier consents, the premises are open to the public, or circumstances are such that immediate action is necessary to protect people from distress, injury or death.

The administration arrangements will be enhanced and updated throughout. The amendments provide regional emergency management committees and municipal emergency management committees the same power as the State Emergency Management Committee to establish subcommittees for the purpose of assisting them in the performance and exercise of their functions and powers. This provides greater consistency and flexibility across the three levels and reflects current practice.

The amendments remove the default appointments of State Emergency Service personnel to the positions of executive officer of the regional emergency management committees and the State Emergency Management Committee. Instead, the State Emergency Management Controller may appoint any suitable member of those committees to the role of executive officer for a specific term. This provides greater flexibility and addresses the concerns that current SES executive officers can be distracted from operational responsibilities if also required to perform executive officer functions.

The administrative provisions are further enhanced by removing the default appointments of the municipal emergency management coordinators to the position of executive officer of the municipal emergency management committee. Instead, the municipal chairperson will have the flexibility to appoint any suitable member of the committee to the role of executive officer for a specific term.

The amendments will provide consistency across municipal and regional levels regarding the requirement to report to higher authority on matters that relate to both the functions and powers of that higher authority. Some authorities are currently only required to report on matters relating to 'functions' and others on 'functions and powers'. The consistent inclusion of 'powers' will allow recommendations to be made on the need for emergency powers, for example.

The amendments will also clarify the appointment arrangements for regional emergency management controllers on occasions where the appointments are not made by the minister. Instead of the appointments being 'determined' by the Commissioner of Police 'in consultation with' the State Emergency Management Controller, the amendments will make it clear, in such circumstances, the State Emergency Management Controller can approve these appointments, once a suitable candidate is determined by the Commissioner of Police.

The amendments will provide added flexibility for the deputy state controller, deputy regional controllers and deputy municipal coordinators to subdelegate any of the functions and powers that have been allocated to them in their capacities as deputy. The power to delegate their role will allow for more effective continuity of emergency management relief when deputy appointees are on planned absences from work.

The amendments update nomenclature for certain positions within the Department of Police, Fire and Emergency Management. Under the current act, the default appointment to the Deputy

State Emergency Management Controller position goes to the 'Deputy for the Head of Agency'. However, following a departmental restructure in 2016, the 'Deputy for the Head of Agency' position is now more responsible for business and executive services and would have to delegate the role of Deputy State Emergency Management Controller to the Deputy Commissioner of Police, who has always performed this role. Accordingly, the amendment will require the Deputy Commissioner of Police to be the Deputy State Emergency Management Controller if no ministerial appointments are made.

The amendments will correct a previously unnoticed drafting error within the act, by removing a 'double negative' situation and omitting the word, 'not', from provisions describing the time limitations for declarations of a state of emergency. The current provisions state that 'a state of emergency may not be made so as to have effect … for a period not exceeding 2 weeks'. The amendments will omit the second 'not'.

The definition of 'emergency management' will be modernised to include measures that provide community resilience against emergencies. This is required primarily due to Tasmania's commitment to disaster resilience and will be achieved by adding the activities, 'resist' and 'adapt to … an emergency' within the current definition of emergency management.

Any reference to the Tasmanian Emergency Management Plan will change to Tasmanian Emergency Management Arrangements - TEMA - to better reflect its actual content and purpose.

In support of emergency management volunteers, the amendments ensure volunteer emergency management workers authorised to provide emergency services outside Tasmania receive the same workers compensation protections as 'employees' under the Workers Rehabilitation and Compensation Act 1988. The secretary of the department responsible for the administration of the Emergency Management Act 2006 must provide consent.

This bill will take effect upon royal assent and I commend it to the House.

Mr Dean - Was there going to be a briefing? I thought there was.

Mrs HISCUTT - Before I commend the bill to the House, would members be interested in a briefing on this bill or will we proceed?

Mr Dean - There are some issues I want further information on if everybody else is happy. If I am the only member, no, I can work with it.

Madam DEPUTY SPEAKER - I remind honourable members that any member can adjourn at any time so if the member wants to proceed and then feels he needs a briefing, he can always request it.

Mrs HISCUTT - I am happy to do that, Madam Acting President. I now commend the bill to the House.

[4.02 p.m.]

Ms FORREST (Murchison) - Madam Acting President, I support this bill in principle. We all know the devastation that can occur and things can happen very quickly in times of emergencies. We have seen this in this state and in other places with fires, floods and a range of other natural

events. We know that from some of the more recent bushfires and floods in 2013 and 2016, a review of the operations to that point was undertaken, and rightly so.

We are lucky we have not had the loss of life that some other places have experienced - the fires in America and the number of lives lost there. It is phenomenal. It is important we have good procedures and processes in place to deal with emergencies. Overall, I do not have any problems with this legislation, which is based on a series of recommendations from the review conducted following those events I mentioned.

I am sure my questions can be addressed by the Leader through this process rather than through a briefing, which is why I am happy to do it this way. When you talk about the delegation of powers - and the Leader spoke about amendments providing added flexibility for the deputy state controller, deputy regional controller, deputy municipal coordinators and so on - who has ultimate responsibility? Is it still the premier?

The reason I need this to be particularly clear is that when we look back to the Black Saturday fires in Victoria, Christine Nixon, who was in charge, was heavily criticised because, according to the media and other reports, she went off for a dinner break and while she was having dinner, things went pear-shaped. It has made me question who is responsible for that time. Are the delegation powers adequate to make sure the person to whom the power is delegated - or the position it is delegated to - is the responsible person, so you do not see the shifting of responsibility? People do need to sleep, particularly in times like this - it is a highly stressed environment. You need people alert and sharp in their thinking to make really important decisions. People are expected to be in charge when they are asleep, renewing their thinking capacity, and that is not fair or reasonable.

Overall, it seems like a complicated process. When I read through the second reading speech and listened to it, it is quite convoluted in many respects to set up a necessary and important structure. I would like the Leader to address how that actually will work so the people who are put into these positions are aware of what their responsibilities are, when they start and finish, and who has ultimate responsibility.

The other question I had was about an important addition right at the close of the Leader's speech. She said that -

> In support of emergency management volunteers, the amendments ensure volunteer emergency management workers authorised to provide emergency services outside Tasmania receive the same workers compensation protections as 'employees' under the Workers Rehabilitation and Compensation Act 1988. The secretary of the department responsible for the administration of the Emergency Management Act 2006 must provide consent.

This is fine and important, but has there been costing of this? This is one of the things we often talk about when we extend this cover. I am not saying this should not happen - not at all, I agree it should happen - but I am interested in any likely costing. You cannot predict the number of disasters people may need to be operating on in another jurisdiction. Does it work the other way? If people come over from other jurisdictions to assist us, will their own jurisdiction pick up responsibility rather than us?

Mrs Hiscutt - Are you asking if mainlanders who come here are covered under our workers compensation?

Ms FORREST - No, under theirs.

Mrs Hiscutt - Under theirs?

Ms FORREST - It says here our employees - Tasmanians - providing services outside Tasmania receive the same workers compensation protection as workers here. I assume there are provisions in other jurisdictions' legislation that provide the same protection for their workers who come to assist in any disaster we may have here. Those are my main questions.

[4.08 pm]

Mr VALENTINE (Hobart) - Madam Deputy President, I do not have any particular issues with this bill; it is a good move. I would like to know from the Leader whether local government was fully consulted in this regard, as I expect it would have been, during the review process.

Mrs Hiscutt - I can answer that now, yes, it was.

Mr VALENTINE - It is sensible providing a reasonable amount of time for exercising the powers as described in the second reading speech and we can look forward to better management into the future, if there was bad management in the past. I do not think there was, but it certainly provides the necessary structure for matters to be expedited as quickly as possible. It is important there is nothing in the management structure that disadvantages anybody, given you do communicate with property owners before action is taken. It looks good to me and I will be happy to support the bill.

[4.09 p.m.]

Mr DEAN (Windermere) - Madam Deputy President, I am in a similar situation to other speakers. I certainly support the bill. This side of things has always had good leadership. Andrew Lea is involved and he as always performed his tasks very well, with great credit to him and his team. I have worked in this area myself, as a commander of police having an emergency controlling position and then again in a position within the Launceston City Council in relation to this area, so I understand it quite well.

This review has been in place now for quite some time, as the second reading speech points out, so this review has not been rushed. We could see that, sadly, in emergencies we have had - and we will always have emergencies, unfortunately. The bushfire in the Dunalley area and its devastation was extremely tragic. Some of us can even go back to the emergency of the 1967 bushfires, which identifies why we have to get this right to move forward with it. It was an incredible situation. Tasmania, with its topography and its growth, is always going to be subject to emergencies, fires in particular. All these emergencies have helped inform this review. With any emergency, new things will always come out that we need to address, and we probably need to change some of our ways - it is a living beast. That happens in the police in most of their larger operations as well. They learn something from each activity or event, and that will happen here as well. That is why these people have to be on the ball and have to understand what is going on, because they are protecting lives and property, but lives most importantly. I support the bill, and I have the greatest of admiration for our emergency teams.

[4.12 p.m.]

Mr GAFFNEY (Mersey) - Madam Acting President, I totally support what has happened here. Congratulations to those who have been involved in it. As the member for Murchison said, there has been a huge loss of lives in California recently.

Mr Dean - It happens every year.

Mr GAFFNEY - It does, and it highlights the fact that even though we might live in a developed country where we think we have the best procedures in place and are ready for any sort of emergency, it can happen anywhere. I am not saying we seem to accept it, but we acknowledge that in Third World countries when there are landslides and that sort of thing, it is a tragedy. Even on our own shores in recent times - the member for Murchison and I spoke about it earlier today - there was loss of life in Latrobe during the floods. I think we lost one volunteer firefighter from a heart attack in the Dunalley fires. We acknowledge those losses but -

Ms Forrest - We have to be grateful that we did not have them to the same extent.

Mr GAFFNEY - Exactly, and that is what the member was highlighting. We have to put in whatever we can now to advance the cause so that nobody loses anybody - that there is no loss of life and loss of assets and capital. In the Latrobe municipality in particular, the devastation caused by that flood disaster has taken years to repair and in some areas will probably never be repaired.

Congratulations to all those working on this. No doubt in a few years' time you will be readdressing areas you think can be improved as technology improves and as we go further into it. I think all members here are very pleased with the work undertaken on behalf of our communities.

[4.14 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Acting President, it is an ever-evolving review and we are lucky to have it. Who is in charge? Regardless of any delegations, there is always an appointed deputy who can take over if required. The state controller is ultimately in charge; this is broadly understood. With regard to the volunteers, costs are unknown for volunteers for workers compensation, but volunteers are not deployed interstate very often. The amendment merely provides a more consistent approach to workers compensation, so it is more equitable for volunteers who do go, but it does not happen often.

Bill read the second time.

EMERGENCY MANAGEMENT AMENDMENT BILL 2018 (No. 25)

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -
Section 3 amended (Interpretation)

Mr DEAN - Looking at clause 4(c), by 'omitting "Tasmanian Emergency Management Plan" from the definition of emergency management plan and substituting "TEMA"', why have we not spelled that out in this situation? The Tasmanian Emergency Management Plan is spelled out. I wonder why we have it identified just by the words we have there - TEMA. Obviously there is some reason for it.

Mrs HISCUTT - The reason is that it is defined. Clause 4(j) says 'TEMA' and explains what it is known as. It is defined in the bill. There is a definition for it. That is why it is not there.

Mr Dean - Why isn't it spelled out? It might be further defined later on and it is, but -

Mrs HISCUTT - It is in the same clause; it is just further over the page. Why is it? Drafting style is all we can think. There is no reason why it is or is not, but it is explained there. It is clarified.

Clause 4 agreed to.

Clause 5 -
Sections 6A, 6B and 6C inserted

Mr VALENTINE - On proposed new section 6A with respect to 'Ministerial Committee for Emergency Management', I looked at that ministerial committee. If, for instance, the emergency was in a particular municipal area, is there an opportunity for that municipality to feed in to that particular committee, or is that done at a different level?

Mrs HISCUTT - It depends on the type of emergency, but the premier can bring in whoever he likes. I have in my hand the terms of reference for this particular committee and it talks about the membership and it also adds any other persons the premier considers appropriate.

Mr Valentine - So 6B too?

Clause 5 agreed to.

Clauses 6 to 15 agreed to.

Madam CHAIR - Because there are many sections in this bill, we need to separate it into further sections. I will see how we go.

Clause 16 -
Part 2, Division 3A inserted.

Mr DEAN - This is where 24F fits, clause 16 covers all these. My question related to proposed new section 24F(3) -

> (3) If no State Recovery Coordinator has been appointed under section 24D in relation to an emergency, the State Controller may determine one of the following to be a relevant recovery authority:
>
> (a) the State Recovery Advisor -

I take it that this is a standing position within the state, a set position?

Mrs Hiscutt - I can confirm that as yes.

Mr DEAN - Yes, it is and -

(b) a specified State Service Agency

But, at proposed new section 24F(4) -

> For the avoidance of doubt, a person determined under subsection (3) to be a relevant recovery authority does not receive any additional functions or powers, under this or any other Act, solely on the basis of that determination.

Can you explain what that is about? Having been given that position, there have to be certain additional functions or powers as a result of that appointment. What does it really mean?

Mrs HISCUTT - It is a defined set of functions and powers. The State Recovery Advisor is given powers under a different section - 24B. They could be delegated other functions and powers, if necessary, but that would happen separately.

Mr Dean - Is that another position other than the authorisation in the first place?

Mrs HISCUTT - That is correct.

Clause 16 agreed to.

Clauses 17 to 22 agreed to.

Clause 23 -
Part 3, Division 3A inserted

Mr DEAN - I would like some clarity around this. At 41A, declaration of state of alert, proposed new subsection (b) reads -

> is satisfied on credible information that an emergency that may impact on Tasmania is occurring, or may occur, outside Tasmania.

Could you give the Chamber an idea of events that would be likely to cause that to happen? I suppose it could be outbreaks of exotic diseases. Foot-and-mouth perhaps? Those types of things could impact Tasmania. If that is the case, are there any examples of when that has happened? I am just trying to think of some. I am not sure of any. But have there been, or not?

Mrs HISCUTT - It is designed for things like pandemics or animal diseases. There are examples of swine flu. A while ago, there was a foot-and-mouth outbreak. It would cover that sort of thing.

Clause 23 agreed to.

Clauses 24 to 27 agreed to.

Clause 28 -
Schedule 1 amended (Emergency powers)

Mr DEAN - Clause 28 reads -

… by inserting the following paragraph after paragraph (q) in subclause (1):

(qa) to remove debris from, or demolish, premises if, in the opinion of the authorised officer, the removal or demolition is necessary to avert an emergency, or to minimise the possibility of aggravating an emergency or the effects of an emergency;

Who makes the decision to demolish a building? I take it that is only, as it says here, to avert an emergency. If that occurs, what is the position in relation to compensation and things like that when these sorts of situations occur? If a decision is made to totally demolish a property that may have some good parts, what is the requirement for compensation and any other actions?

Mrs HISCUTT - It can apply to things like loose tin or asbestos in buildings that have been through a fire and having to call on someone to have them removed. It is talking about compensation in the original act, the Emergency Management Act 2006, section 54. I will read it out for you. It is not very long -

54. Compensation for lost property, &c.

(1) Compensation may be payable if property is lost, destroyed or damaged as a result of an act or omission by an emergency management worker, the State Committee, a Regional Committee, a Municipal Committee or another person while -

(a) exercising, or purportedly exercising, an emergency power or special emergency power; or

(b) undertaking, or purportedly undertaking, rescue and retrieval operations; or

(c) performing or exercising, or purportedly performing or exercising, any function or other power under this Act.

(2) A claim for compensation under subsection (1) is to made to the Minister in the first instance.

Clause 28 agreed to.

Clauses 29 to 31 agreed to and bill taken through the remainder of the Committee stage.

TRAFFIC AND RELATED LEGISLATION AMENDMENT BILL 2018 (No. 30)

Second Reading

[4.33 p.m.]

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

That the bill be now read the second time.

The bill before the Council today will allow local government to install road humps and traffic calming devices in a wider variety of situations, in line with contemporary best practice.

The current legislation was passed in the 1980s, some 30 years ago, when road humps were a comparatively new and innovative treatment and there was a desire to tightly control their use.

Road humps are 'vertical displacement devices' that are designed to moderate vehicle operating speeds by subjecting vehicle occupants to discomfort if they try to travel over them too quickly. In the years since the original legislation was passed, road humps have evolved into a wide range of related treatments that are all technically road humps.

As the law stands, councils are only permitted to use road hump-type treatments in car parks and residential streets. Elsewhere in Australia, these devices are being used to improve safety and amenity in a variety of other types of locations, particularly those with high pedestrian activity, such as retail or tourist precincts.

While the Transport Commission will still have the power to issue directions to councils about the use of road humps, this bill will give councils greater scope to manage their own road networks.

The current legislation also imposes an outdated mode of consultation on road hump schemes whereby councils are required to advertise road hump proposals in two separate issues of a local newspaper and then forward onto the Transport Commission copies of any representations received along with the council's comments on those representations.

Under this bill, road hump proposals will no longer have to be dealt with in this convoluted fashion. Instead, I am advised by the Transport Commissioner that he intends to instruct councils to consult directly with local residents, bus operators and the emergency services when developing road hump schemes. This will be an improvement over the previous arrangements where an advertisement in the back pages of a newspaper could easily be overlooked.

The Transport Commissioner will monitor this regulatory approach and this bill gives him the power to provide new directions to councils on the use of road hump type devices if any issues arise.

This bill will reduce unnecessary red tape and remove restrictions that are inhibiting the ability of councils to manage safety and amenity on their roads.

Madam Deputy President, I commend this bill to the House.

[4.36 p.m.]

Ms RATTRAY (McIntyre) - Madam Deputy President, in regard to this amendment bill, three or four years ago a plan to reduce the speed limit across the state road network had significant pushback from the community. I put my hand up as being one of those community members who pushed back pretty hard on that.

Mr Valentine - It was on rural roads.

Ms RATTRAY - It was on rural roads. No issue with the reduction of speed on gravel roads. We often see inexperienced drivers and experienced drivers who often do not have much experience on gravel roads. I had no issue at all with reducing speeds on those roads down to 80 kilometres.

But there was a significant push from the government at the time to reduce speed limits on rural roads - down to 90 from 100 kilometres per hour and, I believe, from 110 to 100 kilometres per hour. That did not eventuate. As I said, there was significant pushback.

But I have seen that local government, working with the state Government, has gradually expanded the reduction of speed limits around particular areas. It is quite significant and they have added kilometres of reduction to speed limits. It has been a backdoor approach. I am concerned councils are not looking to take away some obligation for maintaining a road network at a certain level. When you reduce the speed limit quite considerably - everyone would know speed humps reduce your speed down to next to nothing, unless you want to end up with the front of your vehicle not looking pretty.

Ms Armitage - If you can get them installed. I do not know about the member for Windermere, but I have never had a great success with our council when people have fought for this.

Ms RATTRAY - Obviously, there is an approach here from local government, so there may well be.

I am concerned that this may be trying to take away obligations to maintain our road network at a specific level. I want some reassurance from the Leader that is not what we are doing here, that places will have road humps installed for genuine reasons and that we are not doing this because we will not have to spend any money on that road if we bang a few road humps in and we will soon be able to walk away from it. Obviously, road maintenance is expensive and certainly bitumen is the most expensive part of the road network to maintain. That is why many local government areas want to stay with the gravel roads rather than seal them, because their maintenance obligations are at a lower level.

Mr Valentine - It is certainly expensive if you do not lay them properly in the first place.

Ms RATTRAY - We have seen that on our highways, which is a whole different issue and one I do not want to start on today.

It is a lower obligation and expense. There is significant impost on councils to look after road networks, particularly when the Government has such a significant road network maintenance and redevelopment program itself, which does not leave much money over to give to local government to try to assist them. We know the Grants Commission is always difficult to source any money from in regard to providing funds to local government. While there is the Black Spot Program, you have to get in line for that.

I want to be reassured this process or intention will have a strong process around it and road humps will not be put into areas potentially to move away from maintenance obligations. That is what I want to hear from the Leader.

Mr Dean - She must have talked to local government.

Ms RATTRAY - Obviously there has been some consultation. This did not arrive on the minister's desk saying, 'I think we might throw a few road humps in'. It has come from some direct contact with the minister's office, and the department would have progressed this on behalf of the minster.

Mr Valentine - It will be LGAT.

Ms RATTRAY - I am sure it is. It was probably on the agenda two or three annual general meetings ago at their conference. This is where we have arrived - and these types of amendments do not just happen, they take some time to work through. I would like some understanding of the process and reassurance that we are not attempting to step away from maintenance obligations in the local government world.

[4.43 p.m.]

Mr VALENTINE (Hobart) - Madam Deputy President, local government has for a long time wanted powers to put in certain things, one of which is pedestrian crossings. Maybe the Leader can tell me whether they have the power to put in pedestrian crossings. I do not think that they do.

Ms Armitage - No.

Ms Rattray - School bus zones.

Mr VALENTINE - There are all sorts of things local government would like the opportunity to do.

Giving them the power to do bus and speed humps and cushions and chicanes - anything that passes more control back to them, the better, they are the ones who know the areas and what is going to work and not work for the most part.

I will support this bill.

[4.44 p.m.]

Mr GAFFNEY (Mersey) - Madam Deputy President, I take on board the concerns from the member for McIntyre. A perfect example of this is when you have growth areas like Port Sorell, where Shearwater and Hawley are growing. They had a connecting road between them and for a while some people were travelling on the road much quicker than what they should be because historically they had been able to. Then the growth came and it was quite a process for the council at that time to get the appropriate safety road humps in. It was quite a convoluted process. I congratulate the Government for going down this track because it gives more autonomy to the councils, which probably know their areas much better than anyone else. Safety is still the councils' number one concern so they are not going to say, 'Let's put a road hump here; we are not quite sure whether it is going to be safe or not'. It is going to 100 per cent safe because that would have to be guaranteed.

It also means they can respond to areas in their municipality where there may not be crash statistics. Most of the time, when the department looks at where the next lot of funding will go, it depends on what has happened beforehand. This time the councils can get on the front foot, observe and know their communities and be able to do this in a much more efficient time and way. Most councils will allow within their budgets their own funds to do this sort of activity.

I appreciate where the Government has gone with this. It is one of those things where they said when it first came in 30 years ago that they did not want a whole flurry of speed humps going into places but now they understand they are a calming device for traffic.

Out at Hawley - for those who know Hawley - for a long time the council tried to put in a one-way position to slow traffic down. That was not well received by the community at all. The council was trying to slow the traffic down because of high pedestrian use. They needed the speed humps - which are not actually the preferred option in areas of high pedestrian use - because of lack of control but also because one-way traffic and narrowing the streets slows people down.

I support this bill. I think it is a good idea and many councils will say their work will be much easier with this is in place.

[4.47 p.m.]

Mr DEAN (Windermere) - Mr President, I always believed that councils could go ahead and put in these humps wherever they wanted to. I support the bill. I approached both my councils, George Town Council and Launceston City Council, and both must be reasonably happy with this legislation because neither came back to me. Admittedly, that was at very short notice; it was only given to them earlier this week. I told them we probably would be debating this bill today. I take it they are reasonably happy with it. It provides more autonomy, which has been raised here. It gives councils the right to moderate traffic movement in places of need, in high pedestrian areas and particularly where children congregate.

I must say to the member for Launceston that I have been successful in getting speed humps put in. I will give you an example of that: they were in Hart Street opposite the netball courts, an area with a high number of pedestrians -

Ms Rattray - Yes, a super busy area.

Mr DEAN - Yes, a high number of pedestrians. I wrote to the council because I had a number of complaints coming to me about children crossing over to the netball courts, which are on either side of Hart Street. We had children crossing over the road and it was a dangerous area.

Ms Rattray - I have no issue with anywhere like that whatsoever. That is a valid place to have humps.

Mr DEAN - I went to council and suggested there were two or three methods by which they could do it. One was to reduce the speed limit drastically during certain periods, which they could have done because it was mainly at the weekend and in the evening. Another was road humps and yet another was chicanes. It is interesting that this legislation does not cover chicanes, and I wonder why. If you go along Landsborough Avenue at Newstead, you will see a number of chicanes on the road. The bend is sharp where you have to move so you cannot speed through them, although with some you can go right across the top of the island.

Why is that not included in this legislation? If you look at the definition of 'humps', it refers to raised pieces in the road. I wonder why it has not been referred to? If councils want to put in a chicane, can they do that under this legislation in a similar way, or do they have to go through that old process?

Mrs Hiscutt - Can I clarify that for you now? Councils can already put chicanes in without going through this process. Therefore, it was not necessary to put it in here.

Mr DEAN - So they were provided for but not humps?

Mr Gaffney - That is why they did not complain to you. That is why we did not bring it up.

Mr DEAN - They are not always the answer. There is a good example of speed humps in Gepp Parade, Moonah, in the member for Elwick's electorate. Councils are careful with speed humps because hoons use them as launching ramps. You see them out there, pouring oil on the speed hump; then they put their cars on it and it becomes a spinning process, the hooning process, and it is just crazy stuff.

Ms Armitage - I would invoke a citizen's arrest.

Mr DEAN - In this place about two years ago I gave an example of where that happened to some hoons who were doing that. They put the oil on this speed hump right outside my parents-in-law's place.

Ms Armitage - And you arrested them?

Mr DEAN - I tried to. I ran out; I was not all that well attired but if I could have caught them -

Mr PRESIDENT - No wonder they sped off.

Mr DEAN - and that is exactly what they do. Not only did they speed off, but they gave me the two-fingered sign out the window of the car as they were moving off, which added insult to injury, but that is what they do. Speed humps are not always the answer to moderating traffic. You have to be careful where they are and what they do. That is what can happen with these humps.

I am not quite sure as to how much red tape the legislation will actually remove. The second reading speech mentioned it reduces unnecessary red tape but I am not too sure it reduces it too much.

I will raise a couple of other issues during the Committee stage about the right of the director of the traffic transport at State Growth to tell councils what to do. I will support the legislation.

[4.53 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have a couple of answers here.

The member for McIntyre talked about rural speed humps and maintenance. The installation of vehicle displacement devices would be expected to be installed consistent with good engineering practices so it has to be looked at. Road humps generally would be installed in built-up urban environments, mainly for the reasons as specified.

Ms Rattray - I will not see them on my more rural highways then?

Mrs HISCUTT - Not unless they start to build up, but that is assessed by engineers and councils.

Member for Windermere, the Launceston City Council replied to us. Along with the Hobart City Council, it has also expressed interest in implementing schemes that incorporate road hump-type treatments not permitted under the current legislation so it is satisfied with this legislation. The Local Government Association of Tasmania consulted with the sector, targeting local road

managers, and received nine responses, eight of which were generally supportive and one neutral. All comments were provided to the DSG, who responded to all issues raised.

The changes will give councils greater operational autonomy and flexibility. Bearing that in mind, it sounds as if all members might support the amendment bill.

Bill read the second time.

TRAFFIC AND RELATED LEGISLATION AMENDMENT BILL 2018 (No. 30)

In Committee

Clauses 1 to 5 agreed to.

Clause 6 -
Section 49A substituted
49A. Installation of road humps

Mr DEAN - Madam Chair, I briefly raised this point during the second reading debate. Clause 6(2) reads -

> The Commission may issue written directions in relation to road humps, or proposed road humps, on public streets.

Does that mean the commission could give a written direction to a council to put in road hump? Could the commission give them a direction to do that? If that were so, members of the public will probably go to the commission, rather than council, because they might think they will get a better result, or they might go both ways - to the council and the commission - to have speed humps put in.

My next question relates to clause 6(4) -

> A road authority or person to whom a direction under subsection (2) is issued must comply with that direction.

What sort of directions could be given in relation to this, if it is a direction? Perhaps I should wait for the answer for the first part, because this further part might not be necessary.

Mrs HISCUTT - The idea of the commission is to keep a uniform traffic environment throughout the state, so it is unlikely he would make a random order to put something in. It has to be done with good engineering practices and be kept uniform across the state.

Mr Dean - The commission cannot put speed humps in because that it is a council decision?

Mrs HISCUTT - It is possible for the commission to do it, but it has to be done with good engineering practices.

Mr DEAN - That brings me now to the next part. If the commission could direct a council to put in humps and moderate a traffic issue in that regard, where does that leave a council that sets its

budgets as to what it is going to do and where it is going to spend its money? What sort of direction can be given to them? Could a council could come back and say, 'Well, all right, we will put them in, but you will pay for them?' That is why I wanted some clarity around this point.

As I said previously, this could cause a report to council by an individual like myself - and I have done it several times, and I think the member for Launceston has as well. Prossers Forest Road in Ravenswood is a good one; I have gone to the council about that and said I think it was wrong. Absolutely wrong. The public thinks the council is wrong for not putting speed humps in that road. What this legislation could mean is that now I can get my submission put in to the council and go to the commission to ask it to look at it and make a decision on it.

As I interpret this subclause, that decision would override any council position or decision on this matter. Am I right in that? If I am, I may do that.

Mrs HISCUTT - The original complaint from the individual has to be referred to the council. The individual cannot make a representation to the commission. Well, they can make a representation but the commissioner will direct them back to the council. With regard to your specific question, bearing in mind it is all based on good engineering practices, generally speaking, if a direction is given to a council by the commission, the commission will look at paying for that.

Ms RATTRAY - Just some clarification around 49A, the installation of road humps. It says that the road authority means 'a person, body corporate or body politic responsible', which I guess is the council. Can I have some clarification? Would a person be able to apply? Would they have to own the street, or own their access? I am just interested in how it works.

I understand body corporate, because you get together with all the people who live in that vicinity, particularly a gated community. I am not sure how many of those we have, but I guess they are growing in number around the state. I am interested in how that actually works with a person doing that with their own access. I would not have thought that if it were their access, they would have to apply to anyone to install a road hump if they owned the piece of land. I want some clarification because I do not have quite clear in my mind how that would work.

Mrs HISCUTT - It reverts to the original legislation, which speaks about public roads. It has nothing to do with private roads. For example, you cannot go into TasPorts because it is not a public road. You cannot go into your place, it is a private road. It is for a public road, and it refers back to the original terminology in the original act.

Clause 6 agreed to.

Clause 7 agreed to and bill taken through the remainder of the Committee stage.

MACQUARIE POINT DEVELOPMENT CORPORATION AMENDMENT BILL 2018 (No. 50)

First Reading

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

ADJOURNMENT

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

> That at its rising the Council adjourn until 9.30 a.m. on Friday, 23 November 2018.

Motion agreed to.

The Council adjourned at 5.07 p.m.