PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 12 November 2020

REVISED EDITION

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

NOTICE OF QUESTION

Tasmanian Health Services - Tendering and Procurement Practices

Ms ARMITAGE (Launceston) - Mr President, I would prefer not to be asking this question this morning, but I have tried several times without notice to get an answer and I really cannot get a satisfactory answer so the only alternative is to put it on the Notice Paper.

Mr President, tomorrow I shall ask the Leader of the Government in the Legislative Council -

With regard to the tendering and procurement practices of the Tasmanian Health Service - THS -

(1) (a) In the instance whereby a Queensland firm, Insync, was engaged to conduct a survey on behalf of the Launceston General Hospital Emergency Department - LGHED - attendees earlier this year, were any Tasmanian firms considered?

(b) If not, why not?

(2) (a) As per question without notice answer received on 10 November 2020, advising that Insync was sourced as part of a quotation process by the THS, were any Tasmanian firms approached to quote for this $12 911 (ex GST) contract?

(b) If not, why not?

(3) (a) Why has the Government indicated that the only alternative to engaging an interstate firm for this service would be to ask Emergency Department staff to conduct a survey rather than exploring the possibility of engaging a Tasmania-based service?

(b) Is this how procurement practices are approached more generally?

(4) Can Tasmanian businesses and service providers have confidence going forward that they will be considered for Tasmanian government departments' and agencies' services provision?

(5) Will the Government guarantee that Tasmania-based businesses will be approached in the first instance for procurement of goods and services and that all efforts will be made to work with them to provide such opportunities?

Mrs Hiscutt - I assure the member that I did take the transcript of your *Hansard* comments to the Health department -

Ms ARMITAGE - Actually, if the Leader gave the uncorrected proof of that transcript, it was incorrect. It missed out the word 'not'. Instead of 'I did not expect', the uncorrected copy actually missed out the word 'not'. I have corrected it in the *Hansard.* If you have given them the uncorrected proof, please give them the corrected proof.

Mrs Hiscutt - I will.

DANGEROUS CRIMINALS AND HIGH RISK OFFENDERS BILL 2020 (No. 28)

Consideration of Amendments made in the Committee of the Whole Council

Amendments read a second time and agreed to.

Third Reading

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 3R) - Mr President, I move -

That the Bill, as amended in Committee, be read the third time.

[11.10 a.m.]

Mr DEAN (Windermere) - Mr President, I seldom speak on a third reading, as I said previously. This is information I received only this morning on this bill from the Police Association of Tasmania. I just quote part of what is in the document -

> The current legislation is too onerous and complicated, and therefore criminals are not being designated as dangerous unless it is an extreme circumstance. The bill as is proposed is supported by the Police Association of Tasmania. It is a 70 per cent workable solution and we really need to get something up.
>
> The main weakness with the bill is that there is a two-year review, with the onus on the Crown to prove there is a requirement to continue with the detention.
>
> We are too late to achieve a 100 per cent solution. A solution close to 100 per cent would have been a four-year review, with the onus on the accused to prove there is not a requirement to continue with the detention.

That information is from the president of the Police Association of Tasmania. As I said yesterday, this bill will impact on police and it will require much more of police in many situations, therefore it is important the union's position be known.

Bill, as amended, read the third time.

FINANCIAL MANAGEMENT (FURTHER CONSEQUENTIAL AMENDMENTS) BILL 2020 (No. 16)

Third Reading

Bill read the third time.

MINES WORK HEALTH AND SAFETY (SUPPLEMENTARY REQUIREMENTS) AMENDMENT BILL 2019 (No. 48)

Second Reading

[11.12 a.m.]

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

That the bill be now read the second time.

This bill makes a number of clarifications, corrections and improvements to the Mines Work Health and Safety (Supplementary Requirements) Act 2012.

It is important to note the principal act and its regulations, which I will refer to collectively as the mine safety laws, supplement Tasmania's strong work health and safety laws.

The mine safety laws are intended to be incorporated into and read together with the Work Health and Safety Act 2012 as a single act.

The mine safety laws address the hazards and risks that are not adequately covered by the work health and safety laws.

Maintaining consistency between Tasmania's mine safety laws and the work health and safety law is therefore fundamentally important because the two related statutes need to operate at mines as one.

Tasmania's work health and safety laws are based on national model laws, which include a model work health and safety act, model work health and safety regulations, and model codes of practice.

These elements are supported by a national compliance and enforcement policy which sets out how our work health and safety regulators monitor and enforce compliance.

By way of background, the mine safety laws are necessary in Tasmania because, although the work health and safety laws cover mines, they do not adequately address the hazards and risks of mining operations.

A tripartite Mine Safety Steering Committee has recently completed a comprehensive review of Tasmania's mine safety laws. The steering committee included representatives from

relevant industry groups and unions, the Chief Inspector of Mines, and an independent person with mining-related expertise.

Overall, the steering committee concluded that the principal act is basically sound and requires only a small number of amendments for improvement. The review concluded that the act provides a suitable platform on which to build improvements to the specific requirements applying to the mining industry in Tasmania.

With respect to the regulations, the steering committee concluded the regulations lack both the depth and breadth necessary for the dynamic and potentially high-hazard and high-risk working environments in mining.

Accordingly, the changes contemplated by the bill are a small part of a much broader package of potential reforms that are being developed. The proposed amendments to the principal act are largely minor and relatively straightforward, whereas proposals pertaining to the regulations are extensive and require consultation and further work.

I will now highlight a few key features of the bill.

The bill makes a number of minor amendments and improvements to the principal act to ensure it is fit for purpose. The bill proposes clarifying, correcting or improving key definitions, removing redundant transitional provisions, and ensuring the principal act operates seamlessly with the Work Health and Safety Act.

A number of preliminary provisions of the principal act, including definitions, determine the scope and application of the laws. There is a minor amendment proposed to the object of the act to ensure it remains consistent with the content of the act (once amended).

Section 4 of the principal act, which specifies that the act is to be incorporated in and read together with the Work Health and Safety Act as a single act, is to be amended. The proposed new provisions provide more detail on how the mine safety laws, especially the regulations, operate in conjunction with the work health and safety laws.

The bill amends the definition of a 'mine' to clarify that fixtures, fittings, plant or structures at the place of mining operations are part of the mine. This is not intended to result in any significant change, but it will clarify the status of these items to avoid any doubt arising.

The definition of 'mining operations' under the principal act is particularly important. The act is intended to apply to the entire life of the mine, from the initial site development and construction phase through to decommissioning and rehabilitation.

It is important that coverage commences as soon as work begins on site, because a mine is an evolving workplace, where the early work affects the later work and the hazards and risks that may arise. Initial work needs to start out in compliance with the mine safety laws to avoid the need for remedial work later in the development of the mine.

As it currently stands, the principal act is not clear about at what point during the development of a mine the work becomes mining operations.

The proposed amendments clarify that site development and construction of infrastructure for use in mining are mining operations. This will remove ambiguity about when, in the life of a mine, mining operations start and the act therefore applies.

The existing provisions recognise there is a need to allow some flexibility with the definition of mining operations. New techniques and processes arise over time and may not necessarily be captured in the existing definition. The principal act provides the regulator with the power to declare a particular activity or operation, either generally or at a particular place, to be a mining operation. The declaration is made administratively by notice in the *Gazette*.

The bill proposes introducing more rigor by inserting a regulation-making power to replace the administrative power to declare an activity, generally, to be a mining operation. This means that the 'scoping-in' of an activity generally will be subject to the rigor of making regulations and the scrutiny of parliament.

The existing administrative power to scope-in an activity at a particular place will remain.

Just as there needs to be a mechanism to scope-in activities into the meaning of mining operations, circumstances could arise where an activity at a particular place, or generally, might technically meet the definition of mining operations but be so different to usual mining processes that the application of the mine safety laws would be inappropriate. It is proposed in the bill where an activity is to be excluded generally, it may be 'scoped out' by way of regulations. Where it is a specific case in a particular place, it is proposed that the regulator have an administrative power to scope-out the activity.

Clause 9 of the bill deals with the qualifications, knowledge, skills and experience of the Chief Inspector of Mines, and clause 11 covers the knowledge, skills and experience of mines inspectors.

In Tasmania, inspectors who go to mines are appointed under the general work health and safety laws and they exercise powers and functions under those laws as well as the mine safety laws. There is no additional appointment process applicable to mines. The legislation does not address the knowledge, skills, experience, competencies and/or qualifications for the appointment of inspectors assigned to mines.

In the case of the Chief Inspector of Mines, the principal act provides for the regulator to designate an inspector to be the Chief Inspector of Mines. Again, the legislation does not specify any knowledge, qualifications, skills and so on.

In his 2008 report on the deaths of three mine workers at Renison Bell Mine, Coroner Jones made a recommendation relevant to inspector qualifications. In a recommendation pertaining to making adequate resources available to ensure the mines inspectorate is competent and properly qualified, he added that his recommendation entailed the legislation would specify minimum qualifications to be held by the Chief Inspector of Mines and mines inspectors under his or her control.

In practice, the Chief Inspector of Mines and inspectors assigned primarily to mines have an appropriate mix of qualifications, background and experience relevant to mines and mining operations. In a small jurisdiction with a small inspectorate, it is important to maintain some

flexibility in recruitment practices to enable the filling of positions that meet the needs at the time.

Nevertheless, a minimum skill set is essential for an inspectorate that operates within an industry that is highly technical, potentially high risk and is subject to constant change, both in terms of changing workplace conditions, which can deteriorate rapidly, and technological change.

The position of the Chief Inspector of Mines, in particular, requires qualifications in the field of mining engineering or equivalent and the bill references a means of identifying suitable qualifications as well as providing the regulator with the flexibility to identify suitable equivalents.

With respect to mines inspectors, a mix of skills, knowledge and experience will be required across the inspectorate and specification of a single qualification may prove unnecessarily limiting. The approach adopted in the bill is a mines inspector will have the knowledge, skills and experience that the regulator and the Chief Inspector of Mines have specified as relevant to mining operations, to enable the person to effectively exercise the powers and perform the functions of a mines inspector under the act.

These provisions will not preclude WorkSafe Tasmania inspectors without such knowledge, skills and experience from exercising powers under the Work Health and Safety Act at mines. What it does do is ensure that inspectors who exercise many of the powers and functions of the principal act that are highly specific to mines, have the appropriate knowledge, skills and experience relevant to those powers and functions.

Much of the bill relates to changes to the penalties under the principal act.

The existing penalties in the act were adopted from the former Workplace Health and Safety Act. The penalties were not reviewed at that time and therefore do not align well with those under the Work Health and Safety Act. This is inconsistent with the principle that the two acts should operate as one.

The proposed maximum penalties set out in the bill have been aligned with similar offences under the Work Health and Safety Act. Under the proposed changes, the maximum potential penalty for an offence under the principal act will be $500 000 for a body corporate and $100 000 for an individual. The Work Health and Safety Act does have higher penalties, but such offences are not mirrored in the mine safety laws.

On the face of it, it may appear that new penalties would result in considerable increases in the potential penalties that a duty holder may incur for an offence. In practice, duty holders under the mine safety laws also have responsibilities under the work health and safety laws, and the potential for higher penalties for offences already exists under those laws.

Nevertheless, the proposed changes send an important message. The mine safety laws are equally as important as the work health and safety laws, as will be reflected in consistent penalties for similar types of offences.

The final amendment I will highlight is found in clause 34 of the bill and relates to the consultation process for codes of practice intended to apply specifically to mines and mining operations.

The Work Health and Safety Act allows the minister to approve codes of practice for the purposes of the act. Such codes of practice apply to a mine or mining operations, as in the case of other workplaces or work processes, if the subject matter is relevant. However, there are currently no codes of practice specific to mining.

Back when the national model laws were being developed, a number of codes of practice specific to mining were under development, in anticipation they would support Chapter 10 of the regulations on mines.

The Work Health and Safety Act requires codes of practice to be developed by a process involving a process of national consultation, in order to maintain national harmonisation of work health and safety laws. Now that mining is not part of the national model laws, there is no longer a mechanism for the national consideration of mine safety codes of practice. Given that mine safety laws are different in each jurisdiction, there is also no purpose to consulting nationally.

The bill provides a mechanism to replace national consultation with a local consultative process for codes of practice specific to mines.

Mr President, when mine safety fails, the results can be catastrophic. A 'worst case' mining disaster has the potential to take many lives, cause injury and distress, disrupt communities, damage infrastructure, incur high costs, and contribute to future economic loss. Sometimes it leads to permanent or long-term closure of a mine and loss of employment.

The complex, dynamic and potentially hazardous activities of mining need to be actively managed to ensure that risks, which may potentially lead to fatalities or catastrophic events, are identified and addressed.

Similarly, mine safety laws need to be actively managed. They need to be reviewed and updated to ensure they remain effective and fit for purpose.

Although the changes proposed by the bill are not major, their implementation is important maintenance work on the principal act, so that it will continue to serve as a suitable base for mine safety laws in Tasmania and remain consistent with Tasmania's work health and safety laws.

Mr President, I commend the bill to the Council.

[11.27 a.m.]

Ms FORREST (Murchison) - Mr President, I will not make a long contribution on this bill because it really is fairly straightforward in many respects but there are a few points I would like to make. It just did cause me to reflect when some years ago I chaired an inquiry into mine safety regulation. I thought I better go and check what year that was and it was 2008 we actually started that inquiry and reported it into 2009. It is a long time ago which makes me feel very old now.

I know it is an older report but for any members who perhaps have not been around in this place that long it actually does provide a lot of - even if you just read the executive summary and the findings, or conclusions we call them in the report, and recommendations - it actually does give a lot of information about where we are needed to head and over time there have been a number of iterations. There have been changes to the workplace health and safety legislation - nationally as well as state-based, as we alluded to in the briefing - and I remember at that time during the inquiry going on we travelled to Western Australia and other parts of the state where mining is a significant industry and there was a lot of national discussion going on and a lot of attempts, I guess I will call it, to get some sort of nationally consistent framework but as with a lot of these things it became almost an impossible task. So, we got a bit of a piecemeal approach, which is a shame in many respects in an industry where we see a lot of fly in/fly out workers and they are complying with not significantly different but a difference of legislative framework in various jurisdictions. They may work here sometimes in Tasmania; they may work in Western Australia; they may work in Queensland, New South Wales.

But it is where it is, and it is important to have legislation that is fairly consistent across all workplaces, because mine sites are workplaces. Yes, they can be inherently dangerous. People perceive them as more dangerous than many other workplaces because everything that happens, particularly in an underground mine, is not open to the sight of the public.

Even in an open-cut mine, you cannot just walk onto a site and look at what is going on. I have been underground many times in a number of our mines around the state. When I was underground at Rosebery once, one of the guys in one of the jumbos said to me, 'You are down here again, you are here more than some of the workers!' I said, 'I do not think that is quite true.'. Hopefully not.

The first time I went underground was as an elected member, and it was quite enlightening as to what is actually under the ground in terms of infrastructure and the workplace that it is. During my time as an elected member, we have had some tragic deaths and injuries in our mine sites.

We have seen the three tragic deaths at the copper mine in Queenstown, which went into care and maintenance after the last deaths, and is still not open again. While I have regular updates from the mine management, which has changed a few times since that time, I say to them, 'Do not tell me it is going to open until it actually is.'. It is stressful for the whole community - but the whole community of Queenstown has rebirthed itself a little, and is really now a very significant arts hub. Our Unconformity festival - which I declare an interest in; I am on the board of Unconformity - grew out of that closure of copper mines to try to reinvigorate the town, and the west coast generally, and it has really assisted in that.

Returning to my comment about mining being an inherently dangerous activity, and again, as said in the Leader's second reading speech, it always is. Let me remind you that there are other workplaces that are much more dangerous than mining - much more.

If you go to the Safe Work Australia website and its reports - and it reports this every year - if you look at agriculture, forestry and fishing, they have the most fatalities - 9.1 fatalities per 100 000 workers. Next is transport, postal and warehousing - 8.7 fatalities per 100 000 workers; electricity, gas, water and waste services - 3.8 fatalities per 100 000 workers; and then mining comes in next, with a fatality rate of 2.9 per 100 000 workers.

We need to put this in perspective - yes, when it is tragic, it is tragic, but how many people die on construction sites? More, many more.

If you look at the number of fatalities, I gave you the figures per 100 000 because that is a more accurate assessment than the actual bare numbers, but in this 2019 report, agriculture, forestry and fishing saw 30 fatalities. Transport, postal and warehousing had 58. Construction had 26 fatalities. They are all tragic deaths of workers in their workplaces.

Yes, while it is an inherently dangerous place, some people cannot even fathom the idea of going underground, because it is very dark when they turn the lights off - and they actually do that to demonstrate. You cannot even see your hand in front of your face at all when all the lights are off. It is just so dark. It would be very frightening in circumstances where there is a disaster in a mine, a collapse, particularly if the power goes off, or a fire.

We have seen some terribly tragic disasters. The North Mount Lyell copper mine disaster, over 100 years ago now, claimed more lives than any other mining disaster in Australia. We had our commemorative service there a few years ago to commemorate that 100 years.

Mr President, it is important to make those points, so we keep it in perspective. Mining is an important industry. It is dangerous, but it is not any more dangerous in many respects than working on a farm, working in forestry, working on a construction site, working in the postal service. Keep that in mind.

My own consultation on this bill has confirmed what the Leader has said and what we heard in briefings, in that these are essentially non-controversial changes. However, there is more to come, as was spoken about by the Leader in the briefing today.

My question for the Leader is that I believe, from my reading of discussions with key stakeholders, that the changes to come are particularly to the regulations. Are we likely to see any other legislative change to the principal act, or is it all regulatory change?

As we know, regulations are changed through a departmental process and ticked off by the Governor. We do not get to see them, as a parliament, until after they have been put in place.

I know my key stakeholders will keep me informed of the progress regarding that. It is difficult and we do not get to approve them before they are made, particularly when they have such significant impacts. There are some contentious issues that will be dealt with through this next process. It will unfold.

I also know, and acknowledge, the extensive consultation. The steering committee that was set up. Incidentally, I did have a quick read of the Government's response. Mr Parkinson was the Leader at the time - they set up this steering committee back in 2008, after our committee was established. Well, that is true, but our committee was proposed before that. You have to put it on the Notice Paper, you have to debate it, you have to get it set up.

The committee were very happy that was the case, because it really forced the government of the day into a position where they actually had to start taking that very seriously, and get proper consultation with all the relevant stakeholders round the table.

It is interesting reading, how you can write history, if you like.

This has had extensive consultation with unions and TMEC and other key stakeholders. It is really about aligning the principles of the workplace health and safety legislation with this mining legislation. In an ideal world, this legislative framework would have formed part of the Work Health and Safety Act, because they have to work together. They are basically doing the same sorts of things in dealing with worker safety. It makes sense.

I did have a question I would like the Leader to address. The briefing said there has been increases in the offences and the fines can be awarded under this act to bring it in line with the Work Health and Safety Act, because it was not done back when the original mining act was put in.

I did ask the question about being fined or receiving some sort of penalty in both the Work Health and Safety Act and this act. How does that work? If it is a direct duplication, that seems somewhat unfair.

I would like the Leader to explain that process in regard to the proposed offences and the penalty for the offences. I am not saying there should not be significant penalties if someone is responsible for not taking due care and attention and results have left serious injury or death of a person. Of course, there should be serious consequences for that, and a serious penalty. I am not suggesting they should not be penalised. I just want to have a fairer approach here. We have two pieces of legislation that sit side by side. What does that mean for someone who is subject to those provisions?

On that, Mr President, I support the bill. I will be interested in those answers to those couple of questions. It is really aligning two pieces of legislation that should be and it makes sense.

[11.39 a.m.]

Ms LOVELL (Rumney) - Mr President, just a brief contribution on this bill. I support the bill. As the member for Murchison has said, workplace safety is so important and we can never get complacent about this, regardless of how long ago we started looking at and considering it. It is something we have to always continue to review and make improvements wherever they are identified as needed.

So much of our lives is spent at work. We spend an enormous proportion of our time at work and injuries can have a lifelong impact on us and on our families and people that care for us.

While mining and some other industries are inherently high risk, there are other industries, as the member for Murchison has pointed out, that have also very high injury rates, maybe not as severe injuries and perhaps fewer fatality rates, but very high rates of injury. If we look at the rates around some of the jobs like contract cleaning, for example, where we have an older workforce, a physical job that requires people to be working at all hours of the day and night, there are very high rates of injury in those types of jobs.

Mr Valentine - Quad bikes in agriculture.

Ms LOVELL - Exactly, quad bikes in agriculture. It is something we must all remain vigilant over across all of our industries. I am pleased to see these improvements coming forward. It is also really pleasing to hear there has been significant consultation and not only industry stakeholders, but unions. Unions are made up of workers who are the ones faced with the risks every day. They are usually the ones that identify those risks and notice things that may be overlooked by people who are not actually doing the job each and every day. I am looking forward to that continuing, as we have heard in the briefing this morning, through the development of the regulations. That is critical in this process.

I will support the bill. I am obviously happy to see these improvements to the act come through. We will look forward to seeing more consultation happen through the regulations process.

[11.41 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have a couple of answers here for the member for Murchison. You talked about penalties. As with other laws in Tasmania, it is possible to prosecute under both sets of laws. It is relatively common across a wide range of laws to have a number of offences that might apply to particular noncompliant behavior. For example, under the work health and safety laws, a person might be charged under the Work Health and Safety Act and under the regulations. Similarly, if two sets of laws are applicable to the situation, such as mine safety laws and work health and safety laws or transport of dangerous goods legislation and work health and safety laws, charges might be considered under one or both particular laws.

In practice, when considering prosecution, it is unusual to assess whether one law or provision is more applicable than the other. When a person is charged and convicted of more than one offence, a magistrate will likely consider whether to take this into account in sentencing or, for example, by imposing a penalty for only one of the offences.

You also asked about legislative changes to the act. It is not clear at this stage whether there will be further changes required to the act arising from consultation on the regulation. It is important for the act to continue to effectively regulate safety. Should this need for further act amendments be required, they will be pursued in conjunction with amendments to the regulations.

Bill read the second time.

MINES WORK HEALTH AND SAFETY (SUPPLEMENTARY REQUIREMENTS) AMENDMENT BILL 2019 (No. 48)

In Committee

Clauses 1 to 8 agreed to.

Clause 9 -
Section 8 amended (Chief Inspector of Mines)

Ms RATTRAY - Madam Chair, with regard to the Chief Inspector of Mines and the requirement in the legislation for the inspector of mines to have specific skills. I asked the

question in the briefing around whether that had any impact on the current Chief Inspector of Mines.

For the sake of completeness, I ask the Leader if she could put on the public record that these requirements - because it talks about a relevant degree, a bachelor degree with major or honours in the area of mining, engineering. It goes on to quite an extensive list of qualifications required, and I did not want that to impact on the current position, given that, obviously, that particular person in that position is undertaking that role now. So, whether this had any impact? I would like the Leader to address that for completeness.

Mrs HISCUTT - As far as the inspector who is there at the moment, his job is safe. His or her job is safe.

Clause 9 agreed to.

Clauses 10 to 24 agreed to.

Clause 25 -
Section 24 amended (Inadequate health and safety management system)

Ms RATTRAY - Madam Chair, just one question with regard to an 'inadequate health and safety management system'. I expect that mines are audited regularly, so can I just have some clarification around this 'inadequate health and safety management system.'. Is that something that would be picked up in an audit, or is it something that happens after there is an incident?

Mrs HISCUTT - It is there to cover either, so it is at any stage.

Clause 25 agreed to.

Clause 26 -
Section 25 amended (Chief Inspector of Mines may require independent audit)

Ms RATTRAY - With regard to a 'Chief Inspector of Mines may require independent audit', just an example of when an independent audit is required. Would it be that the current Chief Inspector of Mines had some relationship with somebody - as in, they might be related to somebody in a mining situation? What is the need to have that in this legislation as such? I know it is only addressing the penalties, but I am just interested in why that would require an independent audit.

Mrs HISCUTT - Yes, it would mean someone totally unrelated - either personally related, or outside of the mine sphere.

Clause 26 agreed to.

Clauses 27 to 33 agreed to.

Clause 34 -
Section 33A inserted

Mr VALENTINE - Madam Chair, it is interesting we are dealing with a code of practice in this bill with respect to it being local. I know that, during briefings, we had the reason given as to why that is the case. I am wondering if it can be placed on the record as to why we are dealing with a local code of practice, as opposed to a national code of practice, just so anyone listening understands that?

Mrs HISCUTT - There is no nationally harmonised WHS - work health and safety - laws for the mining industry in Australia. From the early days of the development of the national model of WHS regulations, it was intended that they would have a comprehensive chapter dedicated to mining safety - just as there are chapters and paths on other hazardous work and industries such as construction, major hazards facilities, diving work and working with asbestos.

A draft mine safety chapter was developed nationally, but did not receive the requisite two-thirds majority of votes by the jurisdiction WHS ministers to be included in the model laws. The Work Health and Safety Act requires codes of practice to be developed by a process involving national consultation, in order to maintain national harmonisation of work health and safety laws.

Now that mining is not part of the national model laws, there is no longer a mechanism for the national consideration of mine safety codes of practice. Given that mine safety laws are different in each jurisdiction, there is also no purpose to consulting nationally.

The bill, therefore, provides a mechanism to replace national consultation, with a local consultative process for codes of practice specifically for mines.

Clause 34 agreed to.

Clauses 35 to 37 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; and report adopted.

Third reading made an Order of the Day for tomorrow.

PROPERTY AGENTS AND LAND TRANSACTIONS AMENDMENT BILL 2019 (No. 53)

Second Reading

[11.53 a.m.]

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

That the bill be now read the second time.

The Property Agents and Land Transactions Act 2016 has now been in operation for three years. It is timely to review its operation and ensure it is as effective and efficient as possible.

For this reason, I bring before the Council today a small number of improvements that have been identified by the Property Agents Board to streamline operations and reduce red tape.

The Property Agents Board is the regulator for the Property Agents and Land Transactions Act 2016, so is best placed to comment on what is working well and identify any opportunities to improve the way we regulate the industry.

Amendments proposed by the Property Agents Board have been discussed with the major stakeholder, the Real Estate Institute of Tasmania, and confirmed as being of value to the industry.

The proposed amendments include the following changes, which I will now outline.

This bill clarifies that a person may not carry out the functions of a real estate agent or property manager unless they hold the appropriate licence.

Section 34 of the Property Agents and Land Transactions Act 2016 states that 'a person must not carry on all or any part of real estate agency business … unless he or she is a real estate agent …'

Similarly, section 35 prohibits a person from carrying out any part of a property management business unless he or she is a licensed property manager.

By omitting the words 'business that includes carrying out' and substituting 'the carrying out of', there can be no doubt if a person is performing any of these functions without holding the appropriate licence.

Mr President, this bill also seeks to clarify that real estate agents and property managers are able to contract out their services to a real estate or property management business.

This business model is preferred by some licensees, whereby they are not directly employed by a business, but operate independently on a contract basis.

The legislation currently allows property representatives to do this, but the same opportunity is not afforded to real estate agents and property managers.

This amendment addresses this inequity.

Mr President, in Tasmania, we take the professionalism of the real estate industry seriously. By ensuring people who work in the industry are appropriately qualified, we are offering a high level of protection to both employees, and the consumers who engage with them.

The Property Agents Board has identified a number of training courses that are part of the national training package that provide an appropriate level of qualifications to the industry.

The board has therefore recommended that completion of the appropriate training course be a legislated requirement for holding a licence.

Because such courses are subject to regular review, this bill proposes an amendment to the powers of the Property Agents Board, as regulator of this act, to allow the making of a legally binding determination with details of appropriate training and qualifications for each licence category, in alignment with the national training framework.

By using this legislative instrument, changes can be made, if required, without the need to amend the legislation when requirements or course offerings change.

A new provision is to be inserted to make the licensee directly responsible for notifying the board if the details on the licence change - including the name, address or contact details.

It is important for the regulator to be able to contact all people licensed in the industry to ensure they are kept up to date with professional development opportunities and any changes to the act.

This change will contribute to ensuring contact details are current.

Mr President, the privacy of licence holders should be protected. Currently, section 29 of the act requires the board to maintain a register of property agents, which is published on its website, including the name and address of each real estate agent, property manager, general auctioneer and property representative.

This could be taken to mean that the personal residential address of these individuals must be included in the register, whereas the intention was always that this be the business address.

Therefore, this is clarified in the amended legislation.

Mr President, the board considers that every real estate agency business should identify an individual who is responsible for the management of the business. This will ensure there is someone who can be held accountable if any concerns are raised about the way in which a business is being managed.

To achieve this, it is proposed that sections 36(1)(b), 37(1)(b) and 60(1)(b) be amended to include the words 'a natural person who is', after 'managed by' - for example, 'managed by a natural person who is a real estate agent'.

Mr President, the professionalism and trustworthiness of the real estate industry is important. The purchase of a home or business premises is one of the most significant expenditures many people will make in their lifetime.

And yet there have been occasions where the full facts were not made available to the prospective purchaser.

Currently, it is an offence under the act if an agent or auctioneer knowingly provides false or misleading information to a client.

The board considers that the requirement to 'know' information is false, is too high a level of protection to the property agent, and that the act should allow for a defence that an agent or auctioneer reasonably relied on information supplied by a third party in making the representation.

Mr President, this amendment bill also streamlines some basic administrative processes, such as introducing email as an acceptable means of servicing documents. Electronic communication as a means of service is acknowledged in the court jurisdictions. For example, rule 7.07 and rule 7.16 of the Family Law Rules, and rule 79 and rule 144 of the Tasmanian Supreme Court Rules 2000, both allow for service via email.

The current act requires the code of conduct to be printed and issued to all licensees whenever a revision is made. It is proposed that other methods be allowed, such as distributing the revised code by email and by making it available on the board's website.

A printed copy of the code of conduct will still be available to licensees and members of the public for perusal in the public office of the board.

The bill also removes an obsolete provision that was included to ensure no assistant property manager was disadvantaged during the transition to the new act in 2016. This provision has expired and is no longer required.

Mr President, the Property Agents and Land Transactions Amendment Bill 2019 makes sensible and practical amendments to an act that is already delivering for the industry.

Mr President, I commend the bill to the Council.

[12.01 p.m.]

Ms SIEJKA (Pembroke) - Mr President, this bill amends the Property Agents and Land Transactions Act 2016. Overall, it is an administrative amendment bill which irons out the changes in the Property Agents and Land Transactions Act 2016. The changes are largely administrative, which I will not go into because we have just heard all about them.

Labor supports this bill; however, we believe it misses an opportunity. We have discussed the bill within industry and also reviewed previous submissions. One in particular, which the Local Government Association of Tasmania raised, was an opportunity during consultation, which could be seen to provide protection to both consumers and also the real estate sector, and that is to navigate vendor disclosure.

This act could be an opportunity to add the requiring of a 337 certificate prior to the listing of a property and making it available as part of the sales process as the issue of false and misleading advertising by property agents in sections 56 and 65 raises concerns of procedural unfairness.

This section provides for believing on reasonable grounds that information provided by a third party to be true to be a defence against prosecution and the section provides protection to the agent if they provide information or advertise false information given to them by a third party.

This highlights the potential problems for agents in transactions, where without vendor disclosure in relation to a property the agent can unknowingly be misled. The LGAT submission which has been the subject of consultation with the minister's office calls for revisions to the Property Agents and Land Transactions Act 2016 to consider (a) requiring a 337 certificate prior to listing a property and making it available as part of the sales process

and (b) seeking full disclosure for properties as part of the listing process, rather than the current process.

In Tasmania the liability for legal and noncompliant building works can transfer to the subsequent owner. This has been a contentious issue for many Tasmanians over the years. I am sure most of us as local members have heard the absolute horror stories.

A 337 certificate also referred to as a land information certificate, provides information to ascertain if there are any outstanding matters relating to a property, such as for example, completion certificates for building and plumbing permits, if there is an occupancy permit for the building, if there is any outstanding enforcement on the property and what is the zoning of the site et cetera.

In relation to the 2016 bill, LGAT suggested disclosure provisions should be addressed due to the failures of the 337 certificate process. There is evidence this has been identified and discussed for some time and I am sure going much further back. Most other jurisdictions around the country have up-front vendor disclosure as part of a property purchase process. It is sensible and it provides consumer protection.

At the moment it is not compulsory to provide the certificate prior to property purchase. Disclosure is only done after the purchase is made. It is our understanding that LGAT wrote to the minister in relation to introducing vendor disclosure through the 337 certificate process, and their improvements to the existing instrument, the 337 certificates. However, vendor disclosure prior to purchase has been largely ignored. This could have been a professional addition to the process of property acquisition to provide consumers with additional safeguards when purchasing property. We understand there may have been some lobbying against compulsory up-front vendor disclosure process. This was a missed opportunity to add consumer protection for Tasmanians and we understand the minister has stated it will not be looked at now but they will continue to monitor the situation.

In her reply, could the Leader run through why this suggestion was not placed in the bill, and whether the 337 certificates and vendor disclosures could be added in a review at a later stage? I understand the intended scope of these changes and the feedback that we received during the briefing that this information was not known at the time of the changes to this bill, or this feedback. However, it seems apparent that the issue has been raised consistently over a number of years and could well have been acted upon in this instance. Other than this issue, we support the bill.

[12.06 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I support the Property Agents and Land Transactions Amendment Bill. As we heard through the briefing, these are minor changes to the substantial rewrite that passed the parliament in 2016. The fact sheet tells us that it is around definitions, functions of real estate agents and property managers, classifications that real estate agents and property managers are able to contract services, educational qualifications, and published registers around privacy.

It is not appropriate necessarily to have property agents' personal addresses so they use the address of the real estate agency business and that is appropriate. In the briefing, I made mention that in Tasmania pretty much everyone knows where everyone lives, particularly in smaller communities, but I think it is appropriate to have that privacy aspect in place.

One area regarding false or misleading advertising by property agents, and we know there have been some instances - perhaps not so much in the smaller areas because we know that advertising a property that is 20 minutes away from the mountain bike mecca of Tasmania, Derby, and by interjection the member for Launceston said in the briefing, 'Well, if it were a Sydney person, 25 minutes from the biking mecca would be nothing to somebody from the mainland. They would think it was on their doorstep almost.'. It has been suggested that saying a property is in a particular place and it is not necessarily defining that place, is somewhat false and misleading advertising. We are going to tighten up the rules around that and it is appropriate.

I had some concerns - and I raised it with the Leader's office when I first read through the amendment bill - around taking out 'the agent knows' because that is what we are removing under this amendment. I looked up the principal act and section 56 which is the false and misleading advertising by property agents and, 'a property agent must not represent in any way to someone else anything that,' - and we are going to remove 'the agent knows' - 'is false or misleading in relation to the letting or sale of property'. I had some concerns about that because I thought it was going to make it easier for a property agent to say, 'I didn't know, nothing we can do about it'. The departmental representatives have assured me that removing 'the agent knows' will actually help and assist in being able to hold an agent to account if they represent in any way to someone else anything that is false and misleading. I am very keen to have that reinforced by the Deputy Leader in reply to the debate around this area because I think that is really important.

I know the member for Hobart shared those concerns through the briefing but I was certainly encouraged somewhat by the member for Windermere who gave us the information - and we know that he has valuable knowledge and understanding - that it is very hard to be able to quantify or, if you like, pursue the knowing aspect through the law. I am particularly interested in having a very firm understanding on the public record that this is going to assist people who may in the future feel that an agent has not represented and has given false and misleading information in relation to the letting or sale of a property. That is really where my concerns lie in this.

I absolutely believe that the rest of the bill, as we were told, is minor in changes and will assist and from that 2018-19 review, the aspects that have been brought forward are reasonable. I take on board the member for Pembroke's contribution around the 337. We were told in briefings 'buyer beware' and we know that through any change or transfer of property you need a conveyancing person who will look into all aspects of a property and the like but, again, it comes back to buyer beware.

I think it is something we need to continue to pursue and obviously LGAT will have that on their agenda in the future and I expect we will see another amendment in future to this 2016 legislation that was passed in the House. That is where my concerns lie. Once I have that firm commitment I may or may not need to get up on clause 19. I will remain to see if that is necessary. I support the bill.

[12.13 p.m.]

Ms ARMITAGE (Launceston) - Mr President, first, I should say as a former real estate agent that I support this bill. I also take on board the comments of the member for Pembroke and I think she made a very good suggestion. It is a minor and small bill. Obviously the

substantial rewrite in 2016, as was mentioned by the member for McIntyre, has gone a long way to improving the situation.

It is not a long bill with lots of complexities. As was mentioned today in the briefings, the key aspects of the bill, the clarity and the interpretation section - I mean, everyone in the industry needs to have a licence. I always believed that was the case, anyway. I do not think there would be too many businesses that would take you on if you did not have a licence and it was very important that we had a current licence as well when we were operating.

It sets out the qualifications a real estate agent is required to have and the change in training packages and the underlying training in recent times and allowing the board to set them. I think it is important that they can add and make changes as necessary but the power sits with the board. Also the board is required to keep a register and the information on that is that it be a business address and not a private address.

I probably disagree somewhat with the member for McIntyre that in Tasmania everyone knows where you live. You would hope that is not the case and I know on many occasions, particularly with different jobs like ours and police and others, it is important that people do not know where you live, particularly if they have a little bit of a gripe with you; the last thing you want is them turning up at your door.

Mr Valentine - Mind you, we have to put our address on our posters.

Ms ARMITAGE - Well, we actually do not have to put our address on our posters. We have to put the address of who is authorising us on our posters but not our own address.

Mr Valentine - I authorise my own.

Ms ARMITAGE - However, I must admit, a few years ago - just digressing a little - when a tree fell on my house, the *Examiner* actually gave my full address in the paper without asking me, which was a little unfortunate, so now most people do know where I live. Apart from that, I agree with the recommendations in this bill.

As to disclosure, I probably differ a little bit with the member for McIntyre in this. The Leader or the Deputy Leader will correct me if I am wrong through the department or the advisers, but I do not believe that the onus is on the real estate agent to examine things like the boundaries and whether a fence is in the right place. Obviously some owners may know, but from having sold real estate I know there are occasions when no-one has discovered a problem until a prospective buyer has gone to the council and made some inquiries.

When people buy a property, it says they must or should check and measure their boundaries before they pay their money and it should be subject to whatever and they should do their council investigations, but I believe the majority of people do not measure their boundaries; they assume that they are right and do not check many of those things with council. If they like the house, they simply buy it and trust that everything is according to how it should be.

It really is not something, in my memory as a real estate agent, that you would go onto the title. The most you would do is go onto LIST to look at the size of the house, when it was built and what it was last sold for to try to determine an actual price.

Mr Valentine - A valuer might when they are doing the valuation for a bank.

Ms ARMITAGE - The valuer might, but in this bill we are talking about the real estate agent and the disclosure that they have, so the valuer is not really going to come back. It is about the onus, in my opinion. I look at this probably a little differently to the member for McIntyre when she was talking about disclosure. I would think it is more if you know that the property has a defect, you know that it has rising damp or needs underpinning or an issue such as that, it should be disclosed, but many times an owner will not tell the real estate agent. That is why it comes back to buyer beware. You advise most buyers to get a building inspector to check it.

I know real estate agents are on the very bottom of the list. I was a real estate agent and was told I was near the bottom and now I am a politician I am on the bottom, so I have gone a step down rather than a step up.

We have to be fair as well. It is difficult for real estate agents selling properties to try to ensure that they know everything about the property. Many people might say, as was mentioned for a Sydney buyer, that a property might be close to Derby. Well, in someone's mind, 25 minutes might be close to Derby and in someone else's mind it might not be.

Ms Rattray - I took your point with regard to that.

Ms ARMITAGE - I did hear that, but I think the onus really is on the buyer. Most of us would do a Google search and put in one destination from the other and see how far it is. It might come up 10 minutes or might come up 25, so I think many times the onus is on the buyer.

I see the changes to the bill as certainly worthwhile. They make some good alterations. It is a housekeeping bill. It is good to see that there was consultation with the property agents and also with REIT, who obviously have very big interest and it is certainly the go-to body; particularly for an agent involved in real estate, the Real Estate Institute of Tasmania is very important.

I certainly support the bill before us, but I take on board the comments of the member for Pembroke. They are certainly well worth the Government considering in the future.

[12.19 p.m.]

Mr VALENTINE (Hobart) - Mr President, I am currently involved in particular transactions and things with regard to a property that involves me. I have been thinking about this and I will declare an interest because I want to be 100 per cent sure that no one can turn around and say, 'You should not have been there dealing with that', so I am going to leave the Chamber.

[12.20 p.m.]

Mr DEAN (Windermere) - Mr President, I support the bill. I thank the Leader of the Government for the briefings this morning and answering questions. That satisfied a number of my concerns. The members for McIntyre and Launceston raised a number of points in relation to knowledge, very important parts of it.

Knowledge is difficult to prove, but it can be proven. You can prove it on a person's past behaviour, past jobs, things they have done. However, there is no place for it in this legislation. As we were told this morning, it will make it easier to demonstrate that an agent has not acted properly, has not acted fairly, and that there has been an impact on a buyer in the circumstances. That is a good move.

Why is there no the onus on a real estate agent to ensure that what they are selling is property that they are able to sell? A story on one of the current affairs programs a few weeks ago, I am not sure what state it was in, showed a number of properties -

Ms Rattray - Through you, Mr President, I think it was New South Wales.

Mr DEAN - New South Wales. Properties had been sold where the boundaries were incorrect, and significantly incorrect as well. It was not as though they were simply a metre or two out, they were a block out.

Ms Forrest - It happens here too. Not that far out, but boundaries are often not right.

Mr DEAN - You are right. Normally it is only a metre or two out. When I was in Launceston on the council, I dealt with a number of cases there where it was found that boundaries were not in accordance with what the people were told. In one case it involved a fence being constructed on another person's property. That caused a lot of civil action. It is probably not even resolved now.

Ms Armitage - Through you, Mr President, no, it is not resolved, I am actually still involved with that one, even though it is in the member for Rosevears' area. It is still ongoing. It is now going to the Supreme Court.

Mr DEAN - Is that right? Well, there you go. If you sell property you have to make sure that it is your property, you cannot sell somebody else's property. Buyers treat real estate agents as being honest, in the main, and being fair in relation to properties that they are wanting to purchase.

I accept that there is onus on the buyer, buyer beware, to do some checking, but it incurs more costs, more involvement and time. I support the legislation. It makes it much better. We were told this would have been before us a long time ago had it have not been for COVID-19.

I will support the bill.

[12.23 p.m.]

Ms HOWLETT (Prosser) Mr President, I thank all honourable members for their contribution.

Member for Pembroke, the purpose of the bill was to address operation of the current act. It is not a major reform bill. The amendments are largely operational in nature and are intended to streamline the operation of the property agents bill. The request by LGAT to amend the act to include mandatory vendor disclosure was not made until the bill was finalised in late 2019.

With regard to reforms to include a vendor disclosure, these are major reforms and need to be progressed into consultation with the Real Estate Institute of Tasmania, the Law Society

and Tasmanian LGAT. I urge members to follow up on this matter with correspondence to the minister.

Member for McIntyre, you asked about false and misleading statements by property agents. The purpose of these changes is to reduce the legal standard regarding false and misleading advertising from 'known' to 'reasonably believe' with regard to statements made by property agents in the conduct of their duties.

The 'know' standard has been proven impossibly high for the regulator to meet in the context of investigating complaints. A 'reasonably believe' standard reduces the level of protection.

Under the proposed change, property agents can be held accountable for their statements, but there is a good general protection for false or misleading statements where the property agent reasonably believes it to be true. This can include information provided and relied upon by third parties.

In regard to the example we examined using the example of placenames - 'Howrah Heights' instead of 'Rokeby' - the key element of the change is 'reasonably'. In these cases, the regulator would be able to argue it is not reasonable for an agent to misrepresent such information.

For the member for Launceston, to clarify, the obligations on real estate agents are to comply with the code of conduct and not engage in false and misleading conduct. The primary obligation of due diligence sits with the purchaser. What this bill does is it requires the property agent to provide information they reasonably believe to be true.

Member for Windermere, the mandatory vendor disclosure was considered in the context of the reforms in 2016 that did not proceed at the time due to a lack of consent from key stakeholders, notably the Law Society of Tasmania and the Real Estate Institute of Tasmania.

Mr Dean - I thought it was raised then and there was a lot of discussion on it.

Ms HOWLETT - Yes. The purpose of this bill was to address the operation of the current act, it is not a major reform bill. The amendments in this bill are largely operational in nature and are intended to streamline the operation of the Property Agents Board.

Introducing mandatory vendor disclosure is a policy reform that would require significant consultation with stakeholders, including the Law Society of Tasmania, the Real Estate Institute of Tasmania and the Local Government Association of Tasmania.

I thank all members for their contribution.

Bill read the second time.

PROPERTY AGENTS AND LAND TRANSACTIONS AMENDMENT BILL 2019 (No. 53)

In Committee

Clauses 1 to 18 agreed to.

Clause 19 -
Section 56 amended (False or misleading advertising &c., by property agents)

Ms SIEJKA - In relation to your response and to go back to the issue I raised, based on the submissions and letters we have come across, it does look like this issue of the 337 certificate was raised consistently from the major reform and has continued.

Even though I understand that with the scope of it, it sounds like it is a necessary administrative operational change, this could well have issues into this definition.

Could you clarify whether there is a future opportunity through a review or, given it does seem to be known, why it was not addressed?

Ms HOWLETT - There is no current review plan. I urge you to write to the minister and put your concerns forward.

Ms RATTRAY - Madam Chair, I really want to make a contribution with regard to the matter that I raised around removing from the original bill 'the agent knows'. I am satisfied with the response that I received. I did omit to acknowledge that the Leader's office has been very helpful in working through that particular issue since I had read the legislation which was some three or four weeks ago.

Thank you very much and I also appreciated the briefings this morning. I am satisfied that it has been clearly articulated that this will, in no way, put a higher barrier. It will actually lower the threshold for somebody to come forward and make a complaint in regard to false and misleading information. I am comfortable with that.

My question is, is the Government satisfied?

Ms HOWLETT - That is correct as you put it, and the Government is satisfied.

Clause 19 agreed to.

Clause 20 agreed to

Clause 21 -
Section 65 amended (False advertising &c., by general auctioneers)

Mr DEAN - Section 65 in the current act is amended here by also taking out the 'auctioneer knows'. This is in relation to false or misleading in relation to the sale of a property by auction.

The amendment here introduces also -

> it is a defence for a person charged with an offence against subsection(1) for the person to prove that, at the time when the representation was made, he or she believed on reasonable grounds'

that a representation was true et cetera.

My question is: if an auctioneer is selling a block of land, what in these circumstances would be seen as 'reasonable grounds'? An auctioneer, if they are going to sell a block of land, would need to see the title for them to be able to rely on the defence of reasonable grounds in relation to all of this.

Normally they would simply be provided with a copy of a drawn plan, as was the case in the property I recently bought, a copy of a plan drawn on a piece of paper, not necessarily, as I understand it, a title from the Land Titles Office, as such.

Would that, without the auctioneer going to the extent of checking lands and titles to ensure that the boundaries are correctly marked - would that be deemed to be sufficient for an auctioneer to escape a position of where they have sold to another, at auction, a property that the buyer believes is absolutely accurate and the boundaries are drawn correctly?

Ms HOWLETT - I thank the member for Windermere for his question. In this context, reasonable grounds would have regard to the general expectation of an auctioneer having regard to the code of conduct and their location and industry with which they operate.

The primary obligation for due diligence sits with the purchaser. This is the same for auctions, as for general property sales.

Mr DEAN - My question from this is that again the onus and responsibility are put back on the purchaser in each instance. It could well be a case - and I use for the purposes of my question here, that I could go to a real estate agent and say to them, 'I want you to sell my property in Launceston.'. What sort of proof would they need from me that I am in fact the owner of that property, of which I am not? What sort of proof would they need sufficient for me to say, 'I own it, sell it'? Is that it? What are the responsibilities on an auctioneer or real estate agent in those circumstances?

Ms HOWLETT - It is typical a person selling a property would quite often show mortgage details. If they do not have a mortgage, they would be required to show a title or the deed of the property, or something to satisfy the person they own the property.

Clause 21 agreed to.

Clauses 22 to 25 agreed to and bill taken through the remainder of the Committee stages.

Bill reported without amendment; report adopted.

Third reading made an Order of the Day for tomorrow.

SUSPENSION OF SITTING

12.40 p.m.

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

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

We will return to the Chamber at 2.30 p.m. for question time, then suspend to enable members to listen to the Treasurer deliver the Budget in the other place, and then return back here to do our business.

Sitting suspended from 12.41 p.m. to 2.30 p.m.

QUESTIONS

Royal Hobart Hospital Redevelopment - Performance Issues

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

[2.31 p.m.]

With respect to the nearly $700 million redevelopment of the Royal Hobart Hospital, can the Leader provide definitive information as to -

(1) Any outstanding performance issues including, but not limited to -

(a) the water supply, including any levels of contamination (either heavy metals or otherwise), and the number of water tests that have been undertaken since handover, and a summary of results recorded;

(b) The status of mobile phone communication across the redeveloped site, including any areas still subject to telecommunication 'shadows';

(c) air-conditioning equipment issues, including noise and other matters?

(2) The performance of new electronic equipment employed at the site, such as the steriliser robot, the mobile CT scanner, the multi-place hypobaric and hyperbaric chamber, the electronic instrument tracker, and negative pressure rooms.

ANSWER

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

(1) In line with standard building contract terms, there is a 12-month defects liability period in place that commenced from that date to ensure that any defects with the building work are addressed and rectified by the contractor.

Defect rectification as issues emerge is a normal part of completing any construction project, regardless of the scale or complexity of the work.

(a) There are more than 100 taps and billies available for drinking water, and any sanitary handwashing station fittings that have returned noncompliant results have been labelled with 'Do not drink.'

Water quality experts were engaged to advise on the replacement of some noncompliant fittings and develop a regime of pipe flushing and water testing, and that is ongoing.

(b) Mobile phone coverage surveys were undertaken to identify some areas which did not have optimal mobile phone coverage, which is normal for the commissioning of large buildings.

Cel-Fi mobile phone repeater stations have now been commissioned, with 35 antennas installed throughout K Block to boost the mobile phone coverage.

(c) Noise issues arising from mechanical systems, such as air conditioning, have been rectified by the contractor progressively in advance of the occupation of each floor. Any further noise issues identified will be addressed.

(2) An important addition to the RHH and K Block is the introduction of new and modern equipment, including the precision medical MaQS Instrument Tracking system, mobile CT scanner, Australia's first Atherton Lynx robotic automated guided vehicle, and the multi-place hyperbaric and hypobaric chamber.

The THS advises that the mobile CT scanner has been used four times since its commissioning in October 2020.

The hyperbaric/hypobaric chamber has provided 435 elective patient treatments since commissioning in May 2020, with 12 emergency presentations during that time. Altitude tests of up to the chamber's maximum capacity of 13 716 metres (45 000ft) have also been conducted.

Mr VALENTINE - With respect to the answer for (1)(a), the supplied information has nothing about the number and detail of the contaminations found. It is just a general statement. It says -

> the water supply, including any levels of contamination (either heavy metals or otherwise) and the number of water tests that have been undertaken since handover, and a summary of results recorded.

Unless I have missed something, there is no summary in there whatsoever so we have no understanding as to what level of contamination or otherwise exists.

Ms Forrest - Resubmit it, as we have to.

Ms Webb - It was a very clear question and there was no answer.

Mr VALENTINE - It is clear, and I would like the Leader to provide the answer, please.

Devonport Showgrounds - Harness and Greyhound Racing Facilities - Relocation

Ms RATTRAY to MINISTER for RACING, Ms HOWLETT

[2.36 p.m.]

Minister, there was an announcement this week that the harness racing and greyhound racing facility at Devonport Showgrounds will be relocated to somewhere, and it is anticipated they will have to leave the showgrounds by March 2022.

I am very interested to know how the minister sees a new facility being identified and established in a 16-month time frame and what is plan B if it does not happen?

ANSWER

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

This is such good news for the people of the north-west coast. It is great we can advise them that we will be committing $8 million to a new track there.

Engineering reports are currently being undertaken as we speak to determine a location that will suit both codes. Consultation will begin in the coming weeks and we will make every effort possible to have that development complete when it needs to be.

Ms Rattray - In 16 months time?

Ms HOWLETT - That is correct. Look at what we are doing with the Derwent Entertainment Centre - DEC.

Ms Rattray - You have one; that is interesting.

Ms HOWLETT - Yes; we like a challenge. I am very proud we have secured this deal which it is important for the future of racing and the industry. It is an excellent initiative which is going to create jobs on the north-west coast. The racing industry will have a state-of-the-art facility. The facility at the showgrounds is poor and needs infrastructure upgrades so it is an exciting time for the racing industry.

Tasmanian Health Service - Pain Management Service - Northern Tasmania

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

An answer provided by the Government on 27 November 2018 indicated that the Tasmanian Health Service would implement a pain management service plan for the state's north and north-west and that the service would commence in the first quarter of 2019.

Will the honourable Leader advise -

(1) Has a pain service coordinator been appointed?

(2) On what basis is the pain service coordinator employed - full-time, part-time?

(3) What amount of funding has been provided and spent on setting up these services after the end of the immediate past financial year?

(4) What specific progress has been made towards establishing pain management services in the north and north-west?

(5) When can we expect these services to be implemented and fully functioning in the north and north-west?

ANSWER

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

The Department of Health advises that a pain service coordinator has not yet been appointed. Recruitment of relevant practitioner positions to deliver more pain management services across the north and north-west have been particularly challenging, which has been amplified due to the COVID-19 pandemic. However, the department and the Tasmanian Health Service are continuing to work together to pursue all available recruitment options.

The Tasmanian Government is committed to delivering the quality pain management services which are currently available for patients in the north and north-west Tasmania through a number of initiatives.

The THS has partnered with the Royal Flying Doctor Service Victoria to provide access to online telehealth appointments with a pain specialist. Patients with issues relating to difficult chronic pain problems, those requiring opioids or non-opioid medication review and possible opioid misuse or dependence issues are suitable for telehealth appointments.

It is understood that a number of GP clinics in the north or north-west of Tasmania have also signed up to utilise the telehealth pain management service. The THS has also established a statewide pain management clinical network with Dr Hilton Francis as chair. The Tasmanian Pain Management Network is responsible for the strategic direction and delivery of pain management services across the continuum of care in the THS. The TPMN aims to provide high-level leadership, expertise and specialist clinical advice to the THS, clinicians and other stakeholders to promote optimal health outcomes in the area of pain management services in Tasmania, establishing links with GPs, consumers and other relevant state and national bodies.

In addition, the Tasmanian Health Service and Department of Health are working in collaboration with Primary Health Tasmania to develop a Tasmanian pain management strategy that will provide the foundation and framework for the delivery of pain management services throughout the state. Consultation has extended to consumers and public and private providers with an interest in pain management services. The Tasmanian pain management strategy will provide an agreed framework in which pain management services are delivered

equitably across Tasmania while optimising patient outcomes and experiences through providing value-based care.

Alternative models of care using allied health and nursing staff are also being explored to meet the need for persistent pain management care in the north and the north-west of Tasmania.

Treasurer's Annual Financial Report 2019-20 - Onerous Contracts

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

I have a question, but I do not believe there is an answer. I sent the question on 3 November so I will read it. I would not have thought that it was that hard to get an answer.

The Treasurer's Annual Financial Report 2019-20 notes on page 83 regarding Other liabilities, $620 million in onerous contracts related to Hydro Tasmania's onerous contracts.

My questions, for which I hope I will get answers soon, are -

(1) Why are the onerous contracts related to Aurora not included in this line item?

(2) If a liability related to Aurora's onerous contracts is noted, where is this noted?

(3) If these have been omitted, will this be corrected?

ANSWER

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

Yes, I apologise to the member for Murchison for not having the answer yet. I am of the opinion there is a draft but the Treasurer and the Treasurer's department have been a bit overloaded recently. I can only apologise for that; hopefully, I will have it for you at the next sitting.

Cricket Tasmania - Budget and Support for Grassroots Cricket

Ms RATTRAY to MINISTER for SPORT and RECREATION, Ms HOWLETT

[2.43 p.m.]

I have in my electorate two very proactive cricket teams, Evandale and Bishopsbourne, which are amalgamating for sustainability reasons. I know the Minister for Sport and Recreation is aware they are looking for support to have some new uniforms when they bring their two teams together to make one.

What sort of budget and support does Cricket Tasmania give to grassroots cricket, which is the feeder for Cricket Tasmania? They recently had a fund that has now closed. My teams

are unable to access funds, but obviously we will do what we can to buy uniforms. I am interested in Cricket Tasmania's role and funding to support grassroots cricket in Tasmania.

ANSWER

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

I think the member will find that many teams are starting to amalgamate, particularly football and the cricket teams. Unfortunately that fund has closed, but I have put in a call to Cricket Tasmania and I am waiting on a response to see if there is any assistance from them.

The member would have noticed we just recently announced a partnership with Hydro. Hydro will be working very closely with Cricket Tasmania - they are about to start a regional tour during which they will have cricket hubs right across Tasmania to promote the game and also encourage female participation. We have had a huge rise in female participation in cricket. My daughter has just signed up, and started playing a couple of weeks ago.

I think the member will find there will be some very good work with Hydro and Cricket Tasmania touring the state and giving some great cricket camps to schools and regional areas.

Ms Rattray - Does that support from Hydro come with any funds attached to it? My Evandale-Bishopsbourne amalgamated team does include women's cricket.

Ms HOWLETT - Good. They have one women's cricket team, I believe. I will certainly talk to Cricket Tasmania to see if I can access any funding to put towards new uniforms. I understand they are extremely expensive. We will work our way through it, to do what we can to assist you.

SUSPENSION OF SITTING

House of Assembly - Attendance for Budget Speech

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

> That the Sitting of the Council be suspended until the ringing of the Division bells for the purpose of enabling members to attend the Assembly to hear the Budget Speech delivered by the Treasurer

Mr PRESIDENT - Honourable members, before I put that question to the vote, as far as going to the other place for the Budget, we are to assemble outside the Long Room at 2.55 p.m., and the House of Assembly attendants will assist us from there.

After the Assembly resumes and the Budget is introduced, the Sergeant-at-Arms will allow members' entrance into the Chamber and provide direction. With social distancing to be observed, four members only will be allowed access to the Assembly Chamber and the seating on the Floor.

There will be three members on the Opposition side, and one member only on the Government side of the Assembly Chamber. In the Speaker's Reserve, to accommodate the nine remaining members if we all choose to go, there will be four on one side, and five on the other. Members can take the seat in there at any time, and there will be reserved cards in place.

The four members seated on the Floor will need to withdraw after the speech has been delivered. Your Budget papers will be put on the seats here by Mark Baily while we are in the other place, and that will happen as soon as the Treasurer commences his speech in the Assembly Chamber.

Motion agreed to.

Sitting suspended from 2.46 p.m. to 4.01 p.m.

TABLED PAPERS

MOTION

Government Business - Precedence

[4.01 a.m.]

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

> That Government business have precedence on the next two sitting Tuesdays, being Tuesday, 17 November and Tuesday, 8 December 2020.

Motion agreed to.

Budget Papers 2020-21

Mrs Hiscutt (by leave) presented budget papers for 2020-21 titled Budget Speech; the Tasmanian Budget - Budget Paper No. 1; Government Services - Budget Paper No. 2, volumes 1 and 2; Appropriation Bill (No. 1) 2020 (No. 46) and Appropriation Bill (No. 2) 2020 (No. 47).

APPROPRIATION BILL (No. 1) 2020 (No. 46)

APPROPRIATION BILL (No. 2) 2020 (No. 47)

Note Papers - Budget Papers 2020-21

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

> That the Budget Papers and the Appropriation Bills (Nos 1 and 2) 2020 be noted.

Mr President, I look forward to studying the Budget papers over the weekend. I am sure everybody will and prepare their reply.

Debate adjourned.

ADJOURNMENT

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

> That its rising, the Council adjourn until 11.00 a.m. on Tuesday, 17 November, 2020.

Motion agreed to.

The Council adjourned at 4.03 p.m.