PARLIAMENT OF TASMANIA

HOUSE OF ASSEMBLY

REPORT OF DEBATES

Thursday 1 July 2021

REVISED EDITION

Contents

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The Speaker, **Mr Shelton**, took the Chair at 10 a.m., acknowledged the Traditional People, and read Prayers.

STATEMENT BY PREMIER

Absence of Minister for Parks

[10.02 a.m.]

Mr GUTWEIN (Bass - Premier) - Mr Speaker, on indulgence, the Minister for Parks will not be with us today due to health matters. I will be taking questions relating to her portfolios.

QUESTIONS

Burnie Court - Police Duties

Ms DOW question to MINISTER for JUSTICE, Ms ARCHER

[10.02 a.m.]

In February and again during the recent election campaign, the Government promised police would be removed from court duties in Burnie from today. Are security or police staffing the Burnie Court today?

ANSWER

Mr Speaker, I thank the member for her question. Recently we committed to achieving police out of courts in the first 100 days of government. The Department of Justice is working towards that date. The Department of Justice has considered a number of models to implement the Government's position in relation to getting police out of courts in Burnie. The model that is being progressed will make use of retired police officers and/or court operations officers to manage in-court security work and use correctional officers to undertake prison transport duties.

The department has met with the Retired Police Officers' Association and I am advised they have a good pool of members in the north-west. Expressions of interest have been sent to members of that association advising them of this opportunity to work as court operations officers. Already a number of people have expressed interest in these roles. The commencement date and also the date of police withdrawing will be before the first 100 days of government.

Court operations officers will work Monday to Friday between the hours of 7 a.m. and 6 p.m. A statement of duties is being finalised and once the tasks and scope of responsibility have been finalised, a copy will be sent to Tasmania Police so we can consider whether these court operations officers need to be sworn in as special constables or ancillary constables.

Prisoner escorts will be the responsibility of the Department of Justice during the same business hours and TPS staff may work later, depending on when the court finishes. Prisoners remanded during out-of-hours courts will remain the police's responsibility to transport through to the Launceston Reception Prison.

This is progressing well within our first 100 days of government. We have kept all parties informed in relation to this, including the Police Association of Tasmania. We are working with that organisation as well as the Retired Police Officers' Association. This is not an easy thing to achieve and members should recognise that. While we are also developing a new site for the Burnie Supreme Court as well as the northern regional prison, we need to ensure we have appropriate security in our court systems and that we deliver on our promise to get police out of courts so they can return to their other duties. It is the most sensible option to ensure that we have this transition arrangement in place.

Launceston Magistrates Court - Police Duties

Ms DOW question to MINISTER for JUSTICE, Ms ARCHER

[10.06 a.m.]

During the recent election campaign, the Liberal Party claimed it had removed police from the Launceston Magistrates Court, yet over the past fortnight reports have emerged that police are again being rostered on to security duties. Why are police back there?

ANSWER

Mr Speaker, I thank the Acting Leader of the Opposition for her question. The Launceston Magistrates Court is currently experiencing some issues with private security contractors being unable to provide a full complement of security staff. This has occasionally impacted on the court's ability to operate and has meant that matters have had to be adjourned, albeit on a very limited number of occasions.

To permit the Launceston Magistrates Court to operate, the court recently approached Tasmania Police with a request to assist if necessary by bringing arrested persons into court, supervising them in the dock. This is purely for safety reasons and is a very short-term measure to ensure the courts continue to run and, most importantly, do so safely. I do not think anyone in this place should endorse a situation where we have a short-staffing arrangement and that we would not call on Tasmania Police in this instance as a short-term measure to ensure the safety of staff in the court, all those who work there and the public and community safety. It is the most sensible thing to do in a situation where such a short-term measure is required.

The Launceston Magistrates Court uses contract security services to provide security for all Magistrates Court sites. However, the contractor has recently had difficulties supplying sufficient security officers to meet the court's requirements citing an industry-wide shortage of security officers. That is probably symptomatic of there being high demand due to COVID-19 arrangements as well and security firms are being used. Again, I call on the Opposition not to play politics on something like this. It is symptomatic of a situation. There is a shortage industry-wide. We are doing what is safe in the courts.

I thank the court administration for dealing with this as quickly as possible to having this short-term measure in place and thank Tasmania Police for responding as well. They do an incredible job in our community. Occasionally, when this type of thing occurs, we need to call on their expertise and assistance. Quite frankly, I will not be offering an apology for doing that in a situation where it is a short-term measure. It is not going back on our promise at all. It is only due to a short-term situation that exists because of an industry-wide shortage.

Illegal Firearms Activity

Dr WOODRUFF question to MINISTER for POLICE, FIRE and EMERGENCY MANAGEMENT, Mrs PETRUSMA, referred to PREMIER

[10.09 a.m.]

A new police task force cracking down on illegal guns has been set up in Tasmania's north after a concerning number of incidents. These include 15 shootings in the last four months in Launceston. Last month a firearm was discharged at a staff member through the Bridgewater McDonalds drive-through window, and last week police raided two rural properties and found a wide variety of firearms, hand guns, semi-automatic rifles, double-barrel shotguns, ammunition and grenade-Type explosives. Clearly this is evidence of illegal firearms activity in Tasmania and is a matter of great concern.

A tripartisan parliamentary firearms inquiry was held following the Liberals' attempt to weaken Tasmania's gun laws before the 2018 state election. That inquiry made a range of critical recommendations to strengthen firearms regulations in Tasmania and bring us into line with the National Firearms Agreement. These include more funding for firearm services to improve their service delivery, including background checks and risk alerts. It also included a review between firearm services and medical authorities in relation to risks for family violence.

Will you commit to resourcing and enacting all the recommendations from the Tasmanian firearms inquiry?

ANSWER

Mr Speaker, I thank the member for Franklin for her question. First, I thank our police for their efforts and the work that they do. We can all agree that with their efforts and the task force that has been set up, while it is unfortunate that they are catching people with the cases of guns and ammunition that we are seeing reported, on the other hand it demonstrates that what they are doing is working. I thank them for that and for their work.

As for the recommendations that you have asked me about, I do not have advice in front of me either to explain what we are currently doing or to consider what other steps we might take. I will provide the House with an update today if I can; if not, I will write to you directly within the next week.

New Zealand - Tourism and Trade

Mr STREET question to PREMIER, Mr GUTWEIN

[10.11 a.m.]

Can you update the House on the majority Gutwein Government's strong plan to secure Tasmania's future in tourism and trade, particularly with respect to our important trading partner in New Zealand?

ANSWER

Mr Speaker, I thank the member for Franklin for his question and for his interest in this matter, one which is now starting to pay great dividends for the state.

I point out to the Acting Leader of the Labor Party that it is customary in this place when roles change that you update the House as to whether there are any portfolio changes. It is highly irregular that this has not been done. I ask if you might do that at the first opportunity.

Mr Speaker, the introduction of a new direct flight between New Zealand and Tasmania - and whoever has written some notes this morning for me to draw from has said it has 'flown', pardon the pun, 'in the face of the global retraction of air services during the pandemic'.

We were the one jurisdiction in the world, to the best of my knowledge, that actually looked at this and said there is an opportunity that we could actually secure for Hobart an international airport again and, importantly, build on the great work that was put in place during the city deal with our federal colleagues, and to ensure that commitment was brought forward and put in place: an air link to New Zealand, as we have done.

That will take us forward, both in an economic and a community sense, despite the challenges we are seeing from the pandemic. Considering the service commenced in what is traditionally our quietest time for visitors to the state, the services performed very well, exceeding the expectations of Air New Zealand, which recognises this route as its best performing trans-Tasman route. Prior to COVID-19, Tasmania received just over 20 000 visitors from New Zealand each year, with all of them having to transit at least one other airport on the mainland. We are very confident that this direct service will attract a significant increase from a market that enjoys the best of what is Tasmania: great food, great wine, great world-class events and pristine landscapes.

Tourism Tasmania began a campaign in New Zealand to warm up the market earlier this year, and as we approach our spring and summer, this will ramp up further. It is not just our winter visitor economy that is important, but also our border relationship with New Zealand. Our export position with New Zealand, while solid, has remained relatively static over the last five years, with a value of around $110 million-worth of exports per annum. This is a reflection of the similarity of the products that we both export, meaning that traditionally we have been more of a competitor with them as we have taken goods to the world and anything else. However, a number of exciting opportunities have become clearer in recent times and we intend to pursue these aggressively.

In recognising this, I am pleased to inform the House that I, with the Minister for Trade, Guy Barnett, will lead a delegation of tourism and business operators on a trade mission to

New Zealand in the second half of September this year, subject of course to border protocols at that time. Without doubt, New Zealand is one of the safest places on the planet and, as I have said on many occasions, I believe that Tasmania is the safest place on the planet, so I am hopeful that this visit will be able to go ahead. It is expected that this mission will be well supported, with upwards of 20 tourism and hospitality operators already wanting to participate. Events will be scheduled to showcase our products to the travel, trade and distribution partners and the media during the mission, which I expect to be of five days duration, including the travel time.

Our expertise in the areas of maritime and defence technology also provides opportunities, as New Zealand has committed to a significant increase in its defence budget, with one stream of spending being to the value of around NZ$900 million - a great opportunity for Tasmanian suppliers and us to ply the very good advanced manufacturing products that we have here. Knowledge sharing and transfer in the area of Antarctic research and education exchange arrangements all hold significant potential, and are conversations that will be had.

A number of individual Tasmanian businesses have already established valuable links with New Zealand distributors, offering products such as tea, specialised dairy products and hemp. Hemp is of particular interest, with the global market predicted to be worth some US$26.6 billion by 2025, and with Tasmania currently responsible for 80 per cent of Australia's production.

Direct air services are equally important to our export sector as they are to our visitor economy. Importantly, when international markets begin to reopen, Air New Zealand's network will also provide much improved access to markets such as the North Americas and a number of key Asian gateways.

The ease and timeliness of getting quality products to market, coupled with the cost benefits that come with direct access, is critical to our exports being competitive. The Minister for Trade will be conducting a number of key industry stakeholder round tables, commencing in July, to further assess business opportunities in the agriculture, food and beverage, resources, energy and carbon sectors. This will inform the compilation of a specific New Zealand trade strategy that will align with the Tasmanian trade strategy.

I hope to take the opportunity to arrange a meeting, if possible, with the New Zealand Prime Minister, and also appropriate senior ministers, to further shore up the links and engagement between New Zealand and Tasmania, which are currently strong and well improved as a result of the fact that we now have direct flights.

Importantly, Mr Speaker, we believe this is a relationship that we can strengthen even further.

Courts - Security Staff Arrangements

Ms HADDAD to ATTORNEY-GENERAL, Ms ARCHER

[10.18 a.m.]

It is clear that you are facing serious challenges in fulfilling your pledge to remove police from court duties in the north and the north-west. Labor has been calling for some time for the

Government to stop outsourcing staff, instead bringing them back into government, including security staff employed by private security companies. Will you today commit to directly employing court security staff in all regions as state service employees?

ANSWER

Mr Speaker, I have been upfront with the Opposition and answered their questions on how progress is going for getting police out of courts in Burnie.

In relation to Launceston, I have had some updated information provided in real time. I have been advised through the department by the administrator of the courts that there are no police in Launceston Magistrates Court today. There are either escorts or security. The only reason they would appear today is as a witness in proceedings and, as I said, that was just a short-term measure.

We have fulfilled our election promise already in relation to getting police out of courts in Launceston. I have updated the House in relation to progress in our first 100 days of government and what will be occurring in the Burnie courts in consultation with the Police Association of Tasmania and the Retired Police Officers Association. I thank them for their assistance and cooperation. There are no quick-fix solutions for the Devonport and Burnie region when we do not yet have a prison up north. When we have that facility, we will have more correctional officers available close by.

I am not sure why the shadow attorney-general persists with this line of questioning when I have answered those questions. We continue to be committed to ensuring that Tasmanians have access to an efficient and effective criminal and civil justice system, with more police after Labor cut 108 police officers -

Ms HADDAD - Point of order, Mr Speaker. The question was directly about whether the minister will rule out outsourcing staff to labour hire companies and, instead directly employ them as State Service employees.

Mr SPEAKER - I remind members that it is not an opportunity to re-ask the question. The Attorney-General was answering the question. Thank you.

Ms ARCHER - Thank you, Mr Speaker. The Government has been clear with its policy. Once we have the northern regional prison it is our long-term plan to ensure that correctional officers are the ones who provide that service. I have outlined to the House today what our interim measure is and what we will be delivering in our first 100 days of government.

Lake Malbena - Actions of Parks and Wildlife Service

Ms O'CONNOR question to MINISTER for PARKS redirected to PREMIER, Mr GUTWEIN

[10.22 a.m.]

This morning on the lawns, representatives from 18 community groups, including Fishers and Walkers Tasmania, the Tasmanian Wilderness Guides Association, the Tasmanian National Parks Association and BirdLife Tasmania called for an end to your Government's

secrecy over development in public protected areas. They have had a gutful. They are also furious about the politicisation of the Parks and Wildlife Service under the Government you lead.

Can you explain why your minister's agency, the Parks and Wildlife Service, has been actively facilitating and working with the Lake Malbena development proponent, Mr Daniel Hackett, to progress his project through the federal Environment Protection and Biodiversity Act process? Can you explain why Parks is bending over backwards producing information that falsely denies the impact on wilderness as a result of Mr Hackett's proposed multiple helicopter flights to Halls Island? How did it transpire that a developer, Mr Hackett, released a government Parks and Wildlife Service document? Why is Parks doing a developer's bidding in this way?

ANSWER

Mr Speaker, I thank the Leader of the Greens, the member for Clark, for that question - which were in fact a significant number of questions. I am not sure I will be able to provide all that detail.

The EOI processes we have employed at Lake Malbena are more transparent than what existed when you were in government and prior to that when you were a member of the House. As you well understand, what used to happen when you were in government, would be that these leases, licences and arrangements would be signed, sealed and delivered without the public having any idea at all of what was going on.

Ms O'Connor interjecting.

Mr GUTWEIN - The Leader of the Greens should acknowledge that this is a more transparent process.

A recent assurance report handed down by the Auditor-General found that the EOI process, as measured against the audit criteria, was in all material aspects 'implemented and administered effectively and in a manner consistent with the Government's policy objectives'. In regard to transparency 'there was no evidence to support allegations of undue secrecy of the EOI process'. That is a direct quote.

Ms O'Connor - You are totally distorting his report.

Mr SPEAKER - Order. Ms O'Connor.

Mr GUTWEIN - The Minister for Parks would be able to provide a much more detailed and comprehensive answer than I will be able to this morning. I will provide an update to the House at the end of the day. We will need to wait until the *Hansard* copy of question time is available so that we can look at the multitude of questions you have asked.

Ms O'Connor - I will give you this.

Mr GUTWEIN - I will take that afterwards and we will send that in. I am happy to do that. To the best of my ability I will ensure that we provide answers to the questions you have raised.

Statement by Acting Leader of the Opposition

Shadow Portfolio Responsibilities

Ms DOW (Braddon - Acting Leader of the Opposition) - Mr Speaker, prior to asking my question, I wish to update the House and advise that the member for Franklin, Mr O'Byrne, has temporarily stood down as Labor leader. I have assumed the role of Acting Leader. I will also assume responsibility for Mr O'Byrne's shadow portfolios of infrastructure, economic development, tourism and climate change.

I will also assume the responsibility for the member for Lyons, Rebecca White, while she is on maternity leave for her shadow portfolios of treasury, hospitality and events.

TasTAFE - Accreditation

Ms DOW question to MINISTER for SKILLS, TRAINING and WORKFORCE GROWTH, Ms COURTNEY

[10.27 a.m.]

Can you confirm that if TasTAFE is turned into a government business enterprise it will lose its accreditation, and have to re-apply with ASQA?

ANSWER

Mr Speaker, quite clearly the Acting Leader failed to listen to any of the answers provided to the member for Franklin yesterday when I outlined to the House what the Government's objectives are for TasTAFE. I and the Government have made it clear that this is about delivering outcomes for Tasmania. This is about better conditions for staff. This is about more options for students. This is about capital investment in our facilities all around the state.

Opposition members interjecting.

Mr SPEAKER - Order, the question has been asked. The minister should be able to answer it in silence.

Ms COURTNEY - I am very proud that during the election campaign we committed almost $100 million to be able to deliver this. This is about ensuring that we have the capacity in TasTAFE to deliver the training that Tasmania needs. This is about backing industry, this is about backing our staff of TasTAFE. This is about backing young people.

Mr WINTER - Point of order, Mr Speaker, relevance. It was a very specific question asked that requires a very specific answer. The minister has not got anywhere near the question. We ask you to draw her attention to the question that was asked.

Mr SPEAKER - Thank you for that. As members understand, I cannot tell the minister how to answer the question. The question and similar questions have been asked over a number of days. The minister is now answering the question for today. I will allow her to continue.

Ms COURTNEY - Thank you, Mr Speaker. This is about delivering outcomes for Tasmania. TasTAFE, the organisation, has made enormous improvements in recent years. I congratulate the staff and leadership team for what has been achieved. We are seeing nation-leading outcomes from TasTAFE. We know that there is still more to do, which is why we are making this fundamental investment to ensure that TasTAFE is strong into the future.

Ms O'Byrne - Do you know the answer to the question?

Mr SPEAKER - Member for Bass, order.

Ms COURTNEY - I also congratulate the work that has been done in recent years to ensure that TasTAFE is accredited. This process has taken significant leadership. I thank the current CEOs predecessors as well for the work they have done. As we engage with staff, with unions, with industry, with the wider community, we will ensure that all matters are considered to ensure that TasTAFE can deliver the training it needs to.

Securing Tasmania's Future - Women and Girls

Ms OGILVIE question to MINISTER for WOMEN, Ms HOWLETT

[10.30 a.m.]

Can you update the House on the Government's plan to secure a strong future for Tasmanian women and girls?

ANSWER

Mr Speaker, I thank the member for Clark for her continued interest in the majority Gutwein Liberal Government and what it is doing to promote equality and opportunities for women and girls across Tasmania. When we came to government in 2014, every single head of government agency was a man, and the percentage of women on government boards was in the 20s. There was no women's portfolio and no Women on Boards strategy.

Ms O'Connor - That's not true, I was the minister for women.

Mr SPEAKER - Order.

Ms HOWLETT - We know the barriers contributing to the continued under-representation of women in positions of leadership, including board membership. They are complex and hard to overcome. They include the lack of flexible meeting practices, board culture, recruitment, unconscious bias, lack of networks and lack of confidence by women that they have the skills needed to be selected.

Today, I am proud to be able to announce that in line with the targets of our Women on Boards Strategy 2020-25, as at 31 March this year, 47.9 per cent of all positions on government board committees were filled by females. That equates to 437 of the 912 filled Tasmanian government board and committee positions filled by women as at 31 March 2021. This means we are also on track to achieve 50 per cent representation later this year. This has never been achieved in Tasmanian history.

Results like this do not happen on their own. They are the results of a clear plan, hard work and determination to achieve real change and results. This Government has a plan and is achieving meaningful change in achieving gender equality across leadership positions in the public sector. There is more work to be done, but as our economy continues to rebound from the impacts of COVID-19 we want to ensure that women are able to participate across all aspects of our community and our economy, including in non-traditional fields. It is important that all women can be inspired to be empowered to participate, because we know that participating in the workforce is a major contributor to financial security and independence.

To support our Women on Boards strategy, the Tasmanian Government has doubled the funding for the Women in Leadership Scholarship Program from $50 000 to $100 000 annually for the next three years. We have also recently opened the Supporting Women to Succeed grants program, providing support between $10 000 and $20 000 to any business or organisation with a project that can attract, recruit, retain and promote women into leadership positions.

We have committed $75 000 to develop a specific women in building and construction strategy to help raise awareness of career options in this field, and $20 000 to deliver the Girls in Property pilot program in conjunction with the Property Council of Tasmania. We have also increased funding for the International Women's Day small grants program to $20 000 annually, expanding support for events and activities that celebrate women and their achievements across Tasmania.

Our strong Liberal team has a clear plan to secure the future for women and girls in Tasmania. I am proud to be the Minister for Women, one of four female ministers in a Cabinet of nine, the equal highest female Cabinet representation in our state's history. We are committed to ensuring all women have the opportunity to fully participate in our economic, social, political and community life and we are getting on with the job.

I thank my predecessors in this role for their hard work and achievements in this space. Ministers Sarah Courtney and Jacquie Petrusma, thank you for the work you have previously done.

Government members - Hear, hear.

NAPLAN - Targets

Ms DOW question to MINISTER for EDUCATION, Ms COURTNEY

[10.35 a.m.]

The Government has previously promised that by 2020 Tasmania would be at or above the national standard in every single NAPLAN measurement and meet national benchmarks in reading, writing, maths and science. This promise was made despite NAPLAN figures showing that over the past decade Tasmania has gone backwards in half of the indicators assessed across grades 3, 5, 7 and 9. NAPLAN was cancelled in 2020, but are you confident of achieving this target when results are released in the coming months?

ANSWER

Mr Speaker, I thank the Acting Leader of the Opposition for her question. We have set a number of targets around NAPLAN and other areas of education because we recognise as a government that there is nothing more important than educating our young people to be able to give them the opportunity to ensure they can lead happy and productive lives. NAPLAN is one measure that is part of that. I will go further to the Acting Leader's question in a moment.

This goes to the very heart of all the initiatives this Government has done in recent years to ensure we are increasing retention and attainment across our schools. Yesterday I stood here in this place to announce that we are seeing even more children staying through to year 12 in Tasmania. We have seen already delivered in the first 30 days advertisements in the paper recruiting more health nurses into our schools to support delivery of action, and we are seeing further initiatives rolled out. It was a delight yesterday to visit some of our teachers at Hobart College to understand what is being done to support our high-performing teachers so they can ensure they are delivering great outcomes for Tasmanian children.

The Tasmanian Government is proud of our ongoing record investment of $7.5 billion into Education, $2 billion more than the last Labor-Greens government. Indeed, since 2014 we have employed more than 600 additional full-time equivalent Education staff, which includes 269 teachers. We have continually maintained a strong focus on our educational outcomes across all our levels.

As we know, NAPLAN plays an important part of providing a national measure that allows a comparison of performance between states and territories and supports Tasmanian schools in developing improvement plans and focusing on identified needs. It is a snapshot in time of a child's learning and should not be treated as the only indicator of a child's progress.

We are ensuring, through a range of measures we are implementing across our schools, that service support will continue to be provided to ensure students can achieve the attainment and be supported to get their educational outcomes, because we know that the only side of the Chamber that is committed to education is this side. We have seen that in the commitments we have made -

Ms O'Connor - That's really unnecessary and untrue.

Ms COURTNEY - You tried to close schools, Ms O'Connor.

Ms O'Connor - You know that Mr McKim stopped the school closures, so stop rewriting history.

Mr SPEAKER - Order, Ms O'Connor.

Ms COURTNEY - Mr Speaker, with 600 additional full-time equivalent staff across our system, $2 million more invested, Tasmanians know that the only side of this Chamber that is going to deliver on education is this one.

Gambling in Tasmania - Harm Minimisation Measures

Mr TUCKER question to MINISTER for FINANCE, Mr FERGUSON

[10.39 a.m.]

Can you update the House on the level of gambling in Tasmania and the effectiveness of harm minimisation measures?

ANSWER

Mr Speaker, I thank the member for Lyons for his question. As members would be aware, the fifth social and economic impact study of gambling in Tasmania was originally due to be received by Government by 31 December 2020, but was delayed due to the COVID-19-related closure of venues and associated restrictions, and that of course is on the public record.

I can now advise that the Government and I have received the fifth Social and Economic Impact Study (SEIS) and I will be tabling that report today at the end of question time. The fifth SEIS has been undertaken by a consortium comprising the South Australian Centre for Economic Studies as well Professor Paul Delfabbro at the University of Adelaide, and ENGINE Asia Pacific Pty Ltd.

The principal aims for the study were, first, analysis of key trends and comparisons with other states and territories, including, but not limited to, an update of the gambling industry structure and characteristics, changes and trends in gambling and revenue; and second, to undertake a gambling prevalence study to enable comparisons with previous Tasmanian prevalence studies.

Notably, over 5000 adult Tasmanians were sampled for the purposes of the prevalence study. The report provides a basis for comparison against the previous studies, the most recent of which was the fourth SEIS which was received in December 2017. I am pleased to report to the House that the prevalence of gambling in our state has continued to decline - down to 47 per cent in 2020, from 58.5 per cent in 2017 and 71.7 per cent in 2008. The report shows that the most common gambling activity in Tasmania was lottery tickets, with 37 per cent of adult Tasmanians participating, followed by Keno at 17 per cent, instant scratchies at 11 per cent, and electronic gaming machines at 9 per cent.

Tasmania has the lowest per capita expenditure on gambling of all the states -

Ms O'Connor - We also have the lowest wages and income.

Mr SPEAKER - Order, Ms O'Connor.

Mr FERGUSON - at $733 per adult, which compares with the Australian average of $1277. Furthermore, in 2020, an estimated 0.4 per cent of adult Tasmanians were classified as problem gamblers, based on the Problem Gamblers Severity Index, which is down from 0.6 per cent in the earlier SEIS report -

Ms O'Connor - The term 'problem gamblers' is problematic.

Mr SPEAKER - Order, Ms O'Connor. If you continually interject, then I have no other option but to ask you to leave, so please sit there in silence.

Mr FERGUSON - It is a serious issue, Mr Speaker. Against the same index, the report shows that 1.4 per cent of Tasmanians were classified as 'moderate risk' and 4.8 per cent as 'low risk'.

Electronic gaming machine (EGM) expenditure has also fallen by 15 per cent since the fourth SEIS, from $204 million to $174 million. Expenditure on EGMs in pubs and clubs stood at $257 per adult, well behind the next highest of $500 per adult in South Australia.

The report also noted, and I quote:

> … Tasmania has tougher restrictions on access to cash withdrawals at gaming venues; it is one of only two jurisdictions to prohibit ATMs in hotels and clubs with EGMs; it is one of only two to impose a limit on cash withdrawals at ATMs in casinos; one of only two to impose a limit on EFTPOS withdrawals at hotels and clubs with EGMs; and Tasmania is the only state with a ban on note acceptors in hotels and clubs.

This Government appreciates that problem gambling is a serious issue. We have taken steps in conjunction with the Tasmanian Liquor and Gaming Commission to continue to enhance and improve our harm minimisation strategy. We do not walk from that.

I take this opportunity to thank the commission's chair, Jenny Cranston, and her small team for their work. While I am thanking people, I also note the work of the Liquor and Gaming Branch of Treasury in administering gaming and ensuring compliance in our state. It is, of course, vitally important.

The continued improvement reported in the fifth SEIS tells members of this House that our harm minimisation strategies are in fact working. You can be assured that this Government will continue to take measures to support problem gamblers. I will be tabling that report immediately after questions.

Anti-Corruption Watchdog

Ms JOHNSTON question to ATTORNEY-GENERAL, Ms ARCHER

[10.44 a.m.]

Last night in this House I called out some of the deficiencies in the capacity for the Tasmanian Integrity Commission to do its job. You became somewhat animated and through your interjections seemed to infer that the Integrity Commission was above scrutiny by parliament. Such a notion is, of course, absurd, as the commission is a creation of parliament and we have a fundamental duty here to hold all agents of government to account.

Do you accept that an essential prerequisite for democracy is public confidence in the integrity and honesty of Government entities and employees in public offices? If you do accept this premise, will you bring before this House, as a matter of urgency, best practice legislation that provides for an anti-corruption watchdog with an effective charter and real teeth?

ANSWER

Mr Speaker, I thank the member for Clark for her question. First, I absolutely refute the claims made in this question. It was certainly not my inference. The member for Clark had used, in my view, the most unfortunate and indelicate language in her contribution to the Greens bill last night, with which I have extreme concerns. In my view, she strongly and offensively criticised the independent body of the Integrity Commission and called into question its ability to carry out its important functions. She stated that Tasmanians had lost faith and confidence in the ability for the commission to do its job, alleging failures in its governance and practice. She went as far as to state that the Integrity Commission is 'either not able or not prepared to do the job that the Tasmanian people wanted it to do'. That is a direct quote. What an appalling accusation to make regarding an independent statutory body in this place.

There are, of course, appropriate ways to raise concerns or call for change for reform. This was not one of them, and I found the member for Clark's unfounded criticism of the conduct of the commission quite offensive.

I absolutely refute the claim made that I do not support parliament's ability to question and call to account statutory authorities. As I outlined in my contribution last night, there is a clear process in this parliament for review of Integrity Commission matters, being the Joint Standing Commission on integrity. To be clear, our Government values the work of the commission and respects its independence, and has every confidence in its ability to undertake its duties.

Members interjecting.

Ms ARCHER - Mr Speaker, it is not even the Greens' question and there are constant interjections.

The Integrity Commission operates completely independently of government and political interference under the Integrity Commission Act 2009 to achieve three primary objectives: to improve the standard of conduct, propriety and ethics in public authorities in Tasmania; to enhance public confidence that misconduct by public offices will be appropriately investigated and dealt with; and to enhance the quality of, and commitment to, ethical conduct by adopting a strong educative, preventive and advisory role.

It is important to point out that there have been two recent reviews of the commission - an extensive independent review which resulted in a comprehensive report containing 55 substantive recommendations, including 45 proposed technical amendments, as well as the previous joint standing committee review. While recommendations were made for improvements to the act and the commission, neither of these reviews indicated that there were any fundamental failures that would warrant such an overreach of a response that has been suggested by the member for Clark, Ms Johnston.

As I have stated, the Department of Justice is currently working with the Integrity Commission to bring forward matters informed by the independent statutory review undertaken by the honourable William Cox in 2016, together with other potential issues that have subsequently been identified, which require further policy consideration analysis and consultation.

I, and our Government, remain committed to continuing to progress the important work that is already underway to comprehensively consider any necessary and appropriate amendments to the Integrity Commission Act.

Education - Additional Literacy Support

Ms DOW question to MINISTER for EDUCATION, Ms COURTNEY

[10.49 a.m.]

You have committed that by 2029, no Government school student will enter year 7 without being above the national minimum standard for reading. It is a commendable target based on the work of the #100PercentLiteracy Alliance, but we have heard it all before.

Do you agree a mandated year 1 phonics check will ensure all Tasmanian students who need additional literacy support can be clearly identified? Do you agree a three-tiered instructional model will ensure students who need extra help with their literacy receive intensive support?

ANSWER

Mr Speaker, I thank the member for her question on this very important issue of the literacy of our young people and how this sets them up for the future. This is why the Tasmanian Government, in recognising that literacy is an area of extraordinary importance, has set the aspirational target of 100 per cent functional literacy for all Tasmanians. To help achieve this, my predecessor, Jeremy Rockliff, announced a new target that by no later than 2029 all year 7 students will meet an expected reading standard that is above the national minimum. This standard will be measured through the progressive assessment test.

The Australian Government has also put a focus on literacy and has launched the Literacy Hub, which includes the online Year 1 Phonics Check. All Tasmanian government primary and district schools will be supported to use the Year 1 Phonics Check and this initiative will be continually reviewed, so if further steps are needed to increase take-up, they will occur. To support the teaching of phonics, the Department of Education has put in place the following resources and initiatives. First, teachers will have access to quality resources to support them with teaching phonics, including the Australian Government-funded Literacy Hub. Lead quality teaching literacy coaches will collaborate with speech and language pathologists to support teachers and schools in this important area of literacy development.

This will be enhanced by the recruitment of a further 40 in-school literacy coaches. Support for teachers will include professional learning and guidance in literacy and will foster communities of practice to share and grow knowledge and skills for the effective teaching of phonics. This support will strengthen teachers' capacity to be responsive to student learning and to intentionally make phonics connections to learners' writing and reading experiences.

Monitoring of student progress in communicating, reading and writing will be supported through the use of progressive achievement test early years, or PAT-EY. The Year 1 Phonics Check is another means to monitor student development but not the only one.

All Department of Education primary and district schools will be provided with technical support to use the online Year 1 Phonics Check and activities and ideas to help parents support their children's development and awareness of letters and their sounds at home will be available through schools, child and family learning centres, and the Literacy Hub.

More broadly on the topic of literacy, we have increased the number of in-school quality literacy coaches and hired an additional 40 coaches across our schools to implement evidence-based literacy programs.

In addition, we have also announced the establishment of an expert literacy advisory panel by the Premier to be chaired by Jenny Gale, secretary of the Department of Premier and Cabinet, and Professor Natalie Brown, director of the Peter Underwood Centre for Educational Attainment. The literacy panel will undertake a review of current literacy approaches and supports across our community and provide recommendations on how we can continue to improve. We have sought expressions of interest from a panel who wish to be considered. Those EOIs will be considered and I expect the Premier will have more to say on that in the near future.

I appreciate the question because it was a good opportunity to update the House on the good work that has been done. It clearly demonstrates that to fulfil the targets in literacy as well as other ways going forward, we have clear plans in place, underpinned by resourcing, to ensure that we can get these outcomes for Tasmanians.

Tasmanian Aboriginal Heritage Act - Review

Mr ELLIS question to MINISTER for ABORIGINAL AFFAIRS, Mr JAENSCH

[10.53 a.m.]

Can you update the House on the Tasmanian Government's review of the Aboriginal Heritage Act 1975 and our commitment to protecting Tasmania's Aboriginal heritage?

ANSWER

Mr Speaker, I thank my Braddon colleague, Mr Ellis, for his question and his interest in Aboriginal heritage in Tasmania. I acknowledge and pay respects to the Tasmanian Aboriginal people as the traditional and original owners and continuing custodians of the land on which we are living and working and acknowledge Elders past, present and emerging.

Next week, 4 to 11 July, is NAIDOC Week 2021, an important time to celebrate and learn more about the history and heritage and culture of the First Tasmanians. This year's theme, Heal Country, invites the nation to embrace First Nations' cultural knowledge and understanding of country as part of Australia's national heritage and respect the culture and values of Aboriginal peoples and Torres Strait Islanders, as they do the cultures and values of all Australians.

This year's theme also seeks substantive institutional, structural and collaborative reform and resolution of the outstanding injustices which impact the lives of First Tasmanians. This Government wants that too, which is why just last week the Premier announced a truth-telling process to be facilitated by former Governor Professor Kate Warner which, through the voices

and stories of Aboriginal Tasmanians, can lead us to an agreed pathway to reconciliation. Our goal is better outcomes for Tasmanian Aboriginal people, more opportunity for them and their families to dignify the relationship with our First Tasmanians and to achieve a truly reconciled community through truth and healing.

With this same objective in mind, this Government is committed to protecting Tasmania's 40 000 years of Aboriginal heritage. In 2017 we amended the Aboriginal Relics Act 1975 to address some of its most outdated and problematic elements, and established the independent statutory Aboriginal Heritage Council we have today. To ensure the amended act remains relevant and effective, we also included the requirement to review the act. Today, in accordance with section 23(2) of the Aboriginal Heritage Act 1975, I am pleased to table both the Aboriginal Heritage Act 1975 review report and the accompanying tabling report.

The review, conducted by the Department of Primary Industries, Parks, Water and the Environment, commenced in mid-2019 and involved extensive public consultation. The review included an analysis of issues within the act, comparisons with Aboriginal heritage legislation in other Australian jurisdictions and careful consideration of feedback from Tasmanian Aboriginal people and other stakeholders. I thank everyone who took the opportunity to have their say and inform the review and particularly thank the Aboriginal Heritage Council and its chair Rodney Dillon for their significant contribution. I look forward to the continued involvement and advice.

I am pleased to confirm that the Government has accepted the review report's findings in full and our response to them is outlined in the tabling report, including our intention to undertake further consultation on key issues as a basis for drafting a new and contemporary Aboriginal Heritage Act for Tasmania.

While this is underway we will act to deliver real improvements informed by the review, including provision of clear information at the start of planning and development application processes to ensure proponents are aware of their obligations regarding Aboriginal Heritage; reviewing the reserve activity assessments and expressions of interest for tourism opportunities in national parks, reserves and crown land processes to ensure early consideration of Aboriginal heritage; and embedding measures requiring earlier consideration of potential Aboriginal heritage impacts in Tasmanian planning policies and reviews of the regional land use strategies so future major land use decisions take full account of Aboriginal heritage issues.

Earlier consideration of Aboriginal heritage in these planning and development application processes was something that Aboriginal people and developers and planners identified was needed in the review. Earlier consideration of Aboriginal heritage in these processes will protect Aboriginal heritage by ensuring projects are able to better plan for and around Aboriginal heritage to preserve and protect it, rather than have it identified at the end of their processes after their finances, their time and their plans are committed and Aboriginal heritage becomes an impediment to them proceeding.

We will also progress important projects that will deliver benefits now and support the proposed new legislation, including replacing the current Aboriginal Heritage Register with a new system providing more information and better public access to it while protecting sensitive information; supporting the Land Titles Office to provide early advice regarding Aboriginal heritage to people considering the purchase or transfer of property; and training and upskilling

more Tasmanian Aboriginal people to work as Aboriginal heritage officers to meet the growing demand within 18 months.

Mr Speaker, I as Minister for Aboriginal Affairs, our Premier and this Government are committed to reconciliation and a brighter future for Tasmania's Aboriginal people. I look forward to working with them, to deliver stronger protection for 40 000 years of Aboriginal heritage and culture in Tasmania.

Tasman Highway Closure - Compensation

Ms BUTLER question to MINISTER for INFRASTRUCTURE and TRANSPORT, Mr FERGUSON

[11.00 a.m.]

You have provided compensation to businesses affected by the closure of the Tasman Highway. However, you have been silent on what compensation, if any, you have provided to other residents affected by the drastic inconvenience of these roadworks. What compensation is available and what compensation have you actually given to residents?

ANSWER

Mr Speaker, I thank the member for Lyons, Ms Butler, for her question. The Government has been determined to protect lives and look after people's safety, but also to maintain access to the east coast community for people during the closure. It has been a phenomenal effort by government across the portfolios. The Minister for Small Business, the Premier, our member for Lyons and I have been regular visitors to the east coast, looking after people and listening to their concerns.

I invite members opposite to join the Government in supporting the community in the way we have addressed it through policy, through a safety-first approach, despite the usual politicking which has been played by you, Ms Butler, and by the Acting Leader of the Opposition, Ms Dow.

Ms BUTLER - Point of order, Mr Speaker. To relevance. My question was in relation to what compensation has been provided to residents and whether any plans -

Mr SPEAKER - As I have indicated, Ms Butler, the point of order is not to go over the question again. The minister has only had a short time to answer it. I am sure he will get to the point that you mention.

Mr FERGUSON - Thank you, Mr Speaker. Relevance is a fair point from the member opposite, because she is completely irrelevant to the Opposition, where with the omnishambles which is continuing in Labor Party, the Acting Leader has not still seen fit to give her any portfolios -

Ms BUTLER - Point of order, Mr Speaker. The member is not addressing the question. The question is on compensation for residents.

Mr SPEAKER - Ms Butler, I remind you if you continually jump on points of order, then that is obstructing the business of the day and considered disorderly.

Mr FERGUSON - It is a very serious matter. We have taken the safety-first approach and the politics have been played, unfortunately, by members of the Labor Party. I am not aware of the Greens playing politics on this. I appreciate and express my thanks for that. We have seen politicking from the Labor Party on when people knew what. We have seen politicking from the Labor Party on when the Premier will go there. He had been there the previous day. I am not sure if Ms Butler has been there lately or has travelled Wielangta Road?

Members interjecting.

Mr SPEAKER - Order. We will stand in silence here for a moment to let everybody settle down. The minister is answering the question. Allow him to do that in silence.

Mr FERGUSON - I invite the member, if she has not already, to travel to the east coast and use the Wielangta Road.

Our staff and the department have put in an enormous amounts of work to maintain access to the east coast, understanding that we have been supporting the Buckland community very directly. We appreciate that for the people in the Triabunna, Orford community, up to Swansea who do not see the ability to travel the extra distance across Lake Leake Road, it has been so important for us to maintain that secondary access.

Perhaps Ms Butler has not yet had the opportunity to visit the east coast, which I find surprising given the extra time she now has on her hands.

I sense the embarrassment, but we will continue to support that community. For people who are uncomfortable travelling the Wielangta Road, who feel nervous about that, they should not. But, for those who do, we have put on the commuter service for free, twice a week, allowing a four-hour period in Hobart for appointments. That is a direct result of the community support that the Premier was asked for I think by the Probus group. We have responded to that. We will continue to respond to the community.

We appreciate that while this has been enormously disruptive to the community it has pointed out the importance to all members of parliament for safety and network resilience. Not only are we determined to remediate the Tasman Highway but also to begin the work of sealing Wielangta Road.

I want to update the House that we have made great progress. I am very grateful to my department and the civil contractors. My advice yesterday was that there is now 4000 tonnes of material resting on Tasman Highway that is now being cleared. The clear works began yesterday. I am advised that the material is being loaded by excavators onto heavy-duty dump trucks with a capacity of up to 40 tonnes. They are being shuttled to a nearby quarry. Some of the material will be used on site as reinforcement. Once this work is completed, engineers will assess the road to identify any repairs required before reopening the highway.

I expect that repairs will be needed to the road fabric. Until the material is removed our experts will not be able to assess. My current advice is that we are still aiming to open the highway in mid-July. I do not have any advice that it will be longer or before that date. If the advice changes we intend to make that information public. I thank the member for Lyons for her interest in this matter.

TABLED PAPER

Public Works Committee - Tasman Highway Intelligent Transport Systems

Ms Butler presented a report of the Public Works Committee on the following reference: Tasman Highway Intelligent Transport Systems together with the evidence received and the transcript of evidence.

Mr Speaker, I move -

That the report be received and printed.

Motion agreed to.

SUPPLY BILL (No. 1) 2021 (No. 10)
SUPPLY BILL (No. 2) 2021 (No. 11)

Bills agreed to by the Legislative Council without amendment.

RIGHT TO INFORMATION AMENDMENT (PUBLIC PROTECTED AREAS) BILL 2021 (No. 31)

First Reading

Bill presented by Ms O'Connor and read the first time.

SITTING DATES

[11.11 a.m.]

Mr FERGUSON (Bass - Leader of the House - Motion)(by leave) - Mr Speaker, I move -

That the House at its rising adjourn until Tuesday 24 August at 10 a.m.

[11.11 a.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Mr Speaker, we are not going to be disruptive about this motion but it is worth pointing out that as a result of an election that was held a year early, parliament's sitting schedule this year is scant at best. We are about to flee this Chamber for six or seven weeks, I believe, having only sat for four sitting weeks this year. The parliamentary schedule, the work we are supposed to be doing, has been significantly disrupted as a result of a premature election, and in another time and place you would hope that the Government would institute the same number of sitting weeks that we had last year and the year before. This year the people of Tasmania would make the reasonable assumption or assessment that we are not sitting a sufficient number of days and the Greens believe that is a matter of significant regret.

Motion agreed to.

MOTION

Noting of Joint Address - Death of His Royal Highness The Prince Philip, Duke of Edinburgh

[11.13 a.m.]

Mr SPEAKER - Honourable members, I have to report to the House that on 21 April last, the President of the Legislative Council and the Speaker of the House of Assembly forwarded to her Majesty the Queen, through her Excellency the Governor, the following Joint Address on behalf of the members of both Houses upon the death of His Royal Highness The Prince Philip, Duke of Edinburgh:

> TO HER MOST GRACIOUS MAJESTY THE QUEEN:
>
> MOST GRACIOUS SOVEREIGN,
>
> On behalf of the Members of the Parliament of Tasmania, we, the President of the Legislative Council and the Speaker of the House of Assembly, desire to express to Your Majesty the deep sorrow with which we have received the news of the lamented death of His Royal Highness The Prince Philip, Duke of Edinburgh, whose long life, leadership, and devoted support of Your Majesty, endeared him to Your Majesty's subjects in Tasmania, and in all parts of the Commonwealth of Nations. We desire to convey to Your Majesty and all other Members of the Royal Family our deepest sympathy in your bereavement.
>
> | | |
> |---|---|
> | Honourable C M Farrell | Honourable Sue Hickey |
> | President of the Legislative Council | Speaker of the House of Assembly |

I have also to report that the following Reply had been received from her Excellency the Governor:

> Madam Speaker and members of the House of Assembly,
>
> On behalf of Her Majesty the Queen, I thank you for your message.
>
> 21 April 2021
>
> C Warner
> Governor

[11.15 a.m.]

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

> That the Address be noted and entered into the Journals of the House.

Today I would like to take this opportunity to express the great sorrow of many Tasmanians on the death of His Royal Highness, the Duke of Edinburgh, who died on 9 April 2021. Prince Philip served his Crown, his country and the Commonwealth for nearly 80 years. As Premier, I wrote to Her Majesty, Queen Elizabeth II, to offer Her Royal Highness

and members of the Royal Family our sincere condolences and to let her know that the thoughts of Tasmanians were with her and her family at this very sad time.

His Royal Highness Prince Philip accompanied Her Majesty on her very first official visit to our beautiful island in February 1954 and again on the last visit by Their Royal Highnesses in late March 2000. During that time, he visited Australia on more than 20 occasions and Tasmania nine times. He had a deep affection for Australia and on these visits witnessed a number of key moments in our history. During those and the other visits in between, the attendance and participation of Their Royal Highnesses at special events and occasions for our state ensured a number of personal encounters with the people of Tasmania, and this has resulted in many of them remembering His Royal Highness very fondly.

Her Majesty Queen Elizabeth II's first visit in 1954, joined by Prince Philip, was only a year after her coronation, with an official motorcade, military procession and a colourful performance from thousands of local schoolchildren. The royal couple explored Hobart, visiting Government House and the Repatriation Hospital before travelling to Launceston and on to Devonport.

Prince Philip was already scheduled to visit Australia when Tasmania's worst national disaster struck in February 1967. As reported by the *Mercury* newspaper, his subsequent four-day inspection of the state's bushfire-ravaged regions was described as a 'protocol-wrecking' tour, with frequent stops for the Duke to meet the people and to famously have at least one beer at the Longley Hotel. The Longley Hotel was the only building in the small township that managed to survive the firestorm. The Duke said the area of devastation was wider than he had ever imagined or expected.

Returning later in 1970 with Queen Elizabeth II, and this time with Princess Anne and Prince Charles, Prince Philip participated in the bicentennial celebrations of Captain James Cook's voyage to Australia, with Her Majesty unveiling a memorial plaque in Macquarie Street, Hobart. The royal visitors also travelled to Longley again, this time to witness apple harvesting as the region recovered, as well as to the Royal Hobart Hospital and Launceston's Mowbray Racecourse.

His Royal Highness' son, Prince Charles, and Lady Diana, visited Tasmania in 1983. I have to say personally I was grateful for that royal visit. At that time, I had left the NTFA to play for an amateur team without a clearance and received a lifetime suspension as a result. As a result of that visit, I was granted a Royal Pardon by Her Majesty and I was very pleased that that occurred.

I would also make note that in a conversation I had this morning with one of my senior staff, Sandy Witterson, she informed me that on one of the Duke's visits to Tasmania she had attended one of the functions and she and her husband had the opportunity to meet with His Royal Highness. Sandy's husband at the time struck up a conversation with the Duke regarding antique furniture restoration and the Duke provided some assistance in regard to how you could age furniture. Firing at them with a shotgun was one of the methods he suggested. 'Bullet holes add to their worth', I think was the comment.

His Royal Highness Prince Philip was the patron of hundreds of industrial, sporting, educational and environmental organisations. These included the Duke of Edinburgh's Award

program for young people active in Australia and over 100 countries, and very much so here in Tasmania since 1962.

His Royal Highness the Duke of Edinburgh's funeral took place at St George's Chapel, Windsor Castle, on Saturday 17 April. At the funeral the Dean of Windsor said - and I think this captures things magnificently:

> We are here today in St George's Chapel to commit into the hands of God the soul of his servant, Prince Philip, Duke of Edinburgh. The grateful hearts will remember the many ways in which his long life has been a blessing to us. We have been inspired by his unwavering loyalty to our Queen, by his service to the nation and the Commonwealth, by his courage, fortitude and faith. Our lives have been enriched with the challenges that he has set us, the encouragement that he has given us, his kindness, humour, and humanity.

I offer the sincere condolences of the Government. May he rest in peace.

Members - Hear, hear.

[11.20 a.m.]

Ms DOW (Braddon - Acting Leader of the Opposition) - Mr Speaker, I join with the Premier in expressing condolences on the death of His Royal Highness Prince Philip, the Duke of Edinburgh, on behalf of the Tasmanian Labor Party.

It can be strangely difficult to find the words to remember the life of someone so public, who lived many decades in the public eye in the service of his wife, Elizabeth, and the Commonwealth. In the months since the passing of Prince Philip, there has been an outpouring of sorrow that has shown that regardless of views on the role of the monarchy, we respect and honour service and acknowledge a life of outstanding service.

For almost 80 years Prince Philip served the Crown, his country and our Commonwealth. By the time he had retired at the sprightly age of 96, he had undertaken some 22 000 public engagements. A young Philip experienced great loss and uncertainty in exile, and was reliant on the support of his relatives. Prince Philip's career of service started in the Royal Navy. He graduated top of his class at the Royal Naval College in Dartmouth, and at 21 he was the youngest First Lieutenant in the Royal Navy.

In 1947, the then Lieutenant Mountbatten and Princess Elizabeth married. Five years later the princess became our Queen, and Prince Philip put aside his active military career and took up the role of Royal Consort and companion. Prince Philip has played a central role as a rock of support to Her Majesty Queen Elizabeth. As Her Majesty has said, Prince Philip was her strength and stay. During his decades as devoted Consort to the Queen, Prince Philip has been a regular visitor to our country and his life has naturally become entwined with the history of our nation.

Prince Philip's first visit to Australia was, in fact, in 1940, as an 18-year-old midshipman known as Philip, Prince of Greece, a midshipman aboard the battleship HMS *Ramillies*. The ship was escorting Australian troops from Melbourne across the Indian Ocean to the Suez. In the years that followed, the prince became a regular visitor to Australia, making more than

20 visits to our nation's shores, including the opening of our Olympic Games in Melbourne in 1956.

Visits by the royals always hold significant public interest, but they will perhaps never again reach the heights of the 1954 tour. This visit with the Queen marked the first occasion a reigning monarch had visited Australia. At the time, Australia's population was around 9 million people, and it is estimated some 75 per cent turned out to see the royal couple.

The story goes that in Westbury, the whole community came out to see the young royal couple, with women lining one side of the street to catch a glimpse of the prince, and men doing the same on the other side to view Her Majesty. As part of Prince Philip's visit in 1967, he spent significant time in Tasmania visiting communities and supporting those who had been impacted by the deadly Black Tuesday bushfires in February of that year.

Less than a month after that devastating day, the Duke visited Tasmania's fire-ravaged southern region. The visit was dubbed by some royal watchers as a protocol-wrecking tour. The Prince travelled through Taroona, Kingston, Margate and Snug meeting with people, listening to their stories and consoling them, and working to lift their spirits. A year later he returned to visit the same sites and the same people, developing an enduring connection with these families and communities.

Perhaps his most lasting legacy is the Duke of Edinburgh Award program, as mentioned by the Premier, born of his commitment to young people. Nearly 800 000 young Australians have participated in and benefited from this scheme. These young Australians are among the 8 million across 130 countries who have participated in the awards to date. He described the award as a do-it-yourself growing-up kit, modelled on how he saw life.

Internationally, the Prince was also patron or president of more than 750 organisations, including 50 here in Australia. These organisations reflected his personal passions for conservation, science, industry, design, engineering, sport and the military.

On behalf of the Tasmanian Labor Party, I extend my condolences to Her Majesty the Queen and to the Royal family, and note and give thanks for a life dedicated to service and commitment.

[11.24 a.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Mr Speaker, I rise on behalf of the Tasmanian Greens to pass our sincere condolences to Her Majesty the Queen, our Queen, Queen Elizabeth, and to acknowledge a life lived long, full of purpose and adventure, to acknowledge Prince Philip's clear, abiding love for Queen Elizabeth, and to acknowledge that Prince Philip was quite a character.

It would not be particularly gracious of me to read some of his quotes, given that I understand this *Hansard* may be sent to Buckingham Palace, but it would be fair to say that the Prince was somewhat 'unreconstructed' in his views. There have been a number of times when I have read something the late Prince said and reminded myself that as generations come through, attitudes shift, and particularly the language that we use in social circumstances is modified.

I found Prince Philip quite an admirable character. He was a deep thinker, highly intelligent, and had an unquestionable dedication to making sure that young people in Commonwealth countries were given an opportunity to find their passion, purpose and their place in the world, through the Duke of Edinburgh Award. These are very important awards. Here in Tasmania, for example, my colleague at the last state election, Vica Bailey, is a Duke of Edinburgh Award recipient. For the many thousands of Australians who were part of that Duke of Edinburgh program, it was a life-changing and life-enhancing experience - and that all comes back to the late Prince Philip.

As a devoted republican, I also want to acknowledge that Prince Philip, who married a princess, fathered a future king - and in Prince Charles we have one of the world's great climate champions, a prince who understands the importance of respecting and protecting nature, a man, who as I understand it, talks to his plants, which I find very admirable because I do, too.

Given how long Prince Philip lived, he might be one of those people who lives forever. It was an extraordinary life, and even when he became ill earlier this year, I thought he would bounce back, because that is what he has always done, but not this time.

On behalf of the Greens, I pass on our deepest condolences and warmth to Her Majesty The Queen, and to the entire royal family. Vale, Prince Philip.

[11.28 a.m.]

Mr FERGUSON (Bass - Leader of the House) - Mr Speaker, I rise briefly to also add to the record and to thank the President of the Legislative Council and former Speaker for their deep and moving message of condolence to Her Majesty The Queen, which is being noted in this House now by the motion moved by the Premier.

I pay my respects and honour to the life and person of His Royal Highness Prince Philip, Duke of Edinburgh. As the member for Bass and a minister of Her Majesty The Queen, I also give thanks for the prince's life and service.

So much of that life and service has been to the many organisations, peoples and ethnic communities spread right throughout the Commonwealth. As has been said by previous speakers, the greatest service that the late Prince provided was as a devoted Royal Consort, companion and husband to The Queen.

The record is of course filled with an extensive lifetime of achievement. One I am personally fond of is one others have already referred to, and that is the establishment of the Duke of Edinburgh Award scheme, which is very successful and has an incredible legacy of achievement for so many young Australians, and including many young Tasmanians. That scheme has given so many young Australians between the ages of 14 and 24 with the opportunity to explore their full potential and find their personal passion, their purpose in life and their place in the world, regardless of their location or circumstance. This award scheme is an innovation of Prince Philip himself which has been replicated throughout the Commonwealth and has been seen as one of the great personal development opportunities that is provided to young people, regardless of their location or circumstance, to learn a skill, to improve their physical wellbeing, to volunteer in a community and team and to experience team adventures.

Mr Speaker, in conclusion I would like to say that my highest sense of sympathy and condolence of course must be offered to our Queen, Her Majesty Queen Elizabeth II, to whom we have all sworn our allegiance and who is also amongst her many titles the Queen of Australia. Their love for each other has always been apparent in the occasional glimpses provided into that wonderful relationship, which has served our people and our community here in Tasmania so faithfully and well, so we send our love and affection to the Queen during this very difficult time.

Motion agreed to nemine contradicente.

Motion by **Mr Ferguson** agreed to -

> That Mr Speaker forward a copy of the transcript of the debate on the motion to Her Excellency the Governor.

MATTER OF PUBLIC IMPORTANCE

Workplace Culture

[11.32 a.m.]

Ms O'CONNOR (Clark - Leader of the Greens - Motion) - Mr Speaker, I move -

> That the House take note of the following matter: workplace culture.

We thought it was important today that parliament be given an opportunity to discuss workplace culture. I note that at lunchtime today there will be a meeting of the Premier, the Acting Leader of the Opposition, me and, I believe, the Independent member for Nelson that will look at policies and procedures of Parliament House. The Attorney-General has just reminded me that of course she will also be attending that meeting.

Mr Speaker, this is a very topical subject we are dealing with today. It has a history going back decades and indeed centuries, but in Australian political terms we have seen a very significant shift in the debate around workplace culture, gender inequality, casual sexism, sexual harassment, and that has been a very cleansing shift. We have not yet seen enough evidence of substantive change as women, but the conversation has shifted. It has shifted because of the courage of people like Brittany Higgins who came forward last year after being raped in Parliament House. It has shifted because of the mighty Grace Tame who, as Australian of the Year, has been able to give voice to the victims and survivors of sexual assault and abuse.

Of course we have the situation that is happening here in Tasmanian politics right now where a serious allegation has been made about the Leader of the Opposition, who has had the good sense and the grace to step down during the investigation.

I guess from the point of view of women, our frustration is that for too long there have not been consequences for past behaviours and I think, Mr Speaker, that the gig is up. Fellas, it is over. If in your past you have not conducted yourself in a way that is respectful of women or understands the nature of consent and you are a public figure, chances are you will be in the spotlight because of the courage of people like Brittany Higgins and Grace Tame and other

women who have now come forward to tell their stories of either being discriminated against, harassed, assaulted or raped.

In Australia right now there is a very high level of expectation amongst women and girls that there will be some change. We have had a gutful, and people of a certain vintage, for example my age, more than half a century old, have plenty of understanding and experience of gender imbalance in the workplace and how that can contaminate workplace culture.

I listened to the new member for Bass' inaugural speech yesterday and I thought it was terrific in so many ways, but I actually took offence at something she said where she made an observation after only being here for a week that parliament is 'just fun and games'. No, it is not. This is a place where we deliver law, policy and where there is a contest of ideas. Of course it gets hot in here every now and again, because all of us feel very passionately about the values we hold and what we want to bring to this role. I just say to Ms Finlay, it is not that and I ask you pay a little bit more attention to the nature of the debates and why people take the positions they do.

Mr Winter - I think you should review the *Hansard* on that. You might be mistaken.

Ms O'CONNOR - I am very happy to review the *Hansard* on that, Mr Winter, but it was something that really stuck with me because that is not us.

I also acknowledge the fact that we now have a measure of gender balance in this parliament and upstairs and I believe that has improved the quality of behaviour in here and the debate, to some extent.

To the specific issue, which is topical right now, I acknowledge that in relation to the allegation, the person who came forward with the allegation about Mr O'Byrne spoke to two women at the time and one of them was my colleague, the Independent member for Clark, Ms Johnston, and the other was my colleague, the Labor member for Clark, Ms Haddad. We have had a statement from Ms Johnston about her recollection of those events. I think Ms Haddad owes the House an explanation, or at least should make a statement about how she was approached and what steps she might have taken in order to provide support to the person who came forward.

I hope there is a salient lesson here for men in public life that their past will catch up with them. Times have changed. We are not putting up with it anymore and our daughters certainly will not put up with it. There has been for too long a culture of overlooking and walking by discrimination, harassment and the like, and those days are over. I hope what comes out of this, for all of the pain it causes, is a message to women and girls that we hear you, we believe you, we support you and we admire the courage of people who speak up, and a message to men in public life to behave themselves and respect women. It is not much to ask. All we want is to be treated equally and with respect. That is what we want for our daughters and our granddaughters and all the women in our lives we care about.

Time expired.

[11.39 a.m.]

Ms ARCHER (Clark - Attorney-General) - Mr Speaker, I thank the Leader of the Greens for bringing on this matter of public importance. It is an important topic and issue for us all.

We all have a right to feel safe, to feel respected and to be heard. Culture starts with leadership. The values we live by and the behaviours we demonstrate matter. They matter because they shape the conversations we have and the conversations we need to promote in the community.

Any form of bullying or sexual offence is reprehensible and should be called out whether that offence is committed in the home, the community or in the workplace, any workplace. While it is the right of any victim to decide whether or not to take their allegations to police they should be encouraged and supported to do so at every step as this will ensure any alleged crimes are properly investigated.

All employers have a duty of care and legal obligation to the staff working within their workplace to ensure work health and safety standards are upheld. Our Government takes this responsibility very seriously. WorkSafe Tasmania also takes it very seriously.

This includes in a parliamentary workplace. While I do not believe there is a general culture of bullying or sexual harassment and offending in the Tasmanian Parliament, I am confident that all members in this place accept and acknowledge our collective duty as community leaders and that we share common values when it comes to promoting a positive and supportive culture.

We have all recently signed the parliamentary members code of conduct and should understand our obligations to adhere to them and to set the standard when it comes to positive workplace culture. In addition, all ministerial staff sign a code of conduct as part of their employment contract and must fully understand the values and behaviours expected of them as an integral part of the induction process.

The Tasmanian Liberal Party has adopted a code of conduct that clearly outlines expectations for our members, including staff and volunteers, that stipulates values and behavioural expectations as well as outlining inappropriate behaviour and conduct and the steps that can be taken should this be experienced.

As the member for Bass, Ms O'Byrne, has said on numerous occasions in this place, we must never walk past any standard that is less than we would expect and that community would expect. The onus is on all of us in this House to live by these values every day.

The Government does not condone any form or types of bullying or harassment and requires all staff to abide by standards of conduct necessary to ensure the integrity and ethical standards expected of a staff member in their role. Our Government acknowledges that changes to culture start with everybody accepting there is a need for change. Given this, parliament endorsed the call for an independent review to be conducted on the practice and procedure of the parliamentary workplace including existing complaint mechanisms, frameworks and any cultural and structural barriers to reporting this conduct.

We acknowledge that our duty as community leaders and our common values compel each of us to ensure that the parliament is a leading practice example for all Tasmanians and promotes a positive and supportive culture in its workplace. This is why we are commissioning a review to consider the following areas and provide recommendations to the Government which will be laid before the parliament. Ms O'Connor alluded to the meeting we have at lunch time today. This will be led by the Anti-Discrimination Commissioner, Sarah Bolt, with a specific focus on:

(1) A review into the current policies and practices in relation to providing appropriate responses to harassment, including any legislative, regulatory, administrative, legal or policy gaps associated with parliament, ministerial and parliamentary services and electoral offices.

(2) Identify actions that should be taken to increase awareness as to the impact of harassment and improve culture, including training in the role of leadership in promoting a culture which prevents workplace harassment.

(3) Identify whether changes should occur to the members' code of conduct, the handbook for elected members of the House of Assembly and prescribed parliamentary office holders and ministerial and parliamentary support associated code of conduct.

(4) Advise of other action necessary to address bullying and harassment and sexual harassment in the parliamentary workplace.

I confirm that the review will consider the existing regulatory framework, policies and procedures that apply to members of parliament and staff in the parliamentary workplace as well as best practice in responding to and preventing workplace harassment.

The experiences and views of those working in the parliamentary workplace are vital to this review. Members of parliament and staff will be invited to contribute by making written submissions and speaking directly with the independent reviewer. I understand they can also do that confidentially.

The review will aim to be completed before the end of the year with a report being provided to the secretary of the Department of Premier and Cabinet for fact-checking in advance of being provided to the Premier, who will arrange for the report to be tabled in parliament. Culture starts with leadership and it is incumbent on all of us to ensure we set the highest standards to support safe workplaces.

I recently met with Commonwealth, state and territory ministers regarding the national inquiry on sexual harassment in Australian workplaces, the Respect@Work national inquiry into sexual harassment in Australian workplaces. Tasmania actively participated in the consultation processes as part of this inquiry.

Earlier this year the Australian Government announced its full response to the Sex Discrimination Commissioner's Respect@Work report, *A Roadmap for Respect: Preventing and Addressing Sexual Harassment in Australian Workplaces*. These titles are very long. *A Roadmap for Respect* emphasises that addressing sexual harassment will require leadership and engagement from all levels of government, industry groups, professional organisations, employers, workers and the private sector.

Tasmania recognises the importance of the report, which provided a comprehensive set of recommendations for addressing sexual harassment in the workplace. A number of these recommendations were for action by governments highlighting that sexual harassment is a pervasive and widespread issue across Australian society and that the existing system for addressing sexual harassment is complex and confusing for both workers and employers.

The Government is committed to working with commonwealth, state and territory governments as well as stakeholders at the local level to progress the implementation of the recommendations with a view to preventing sexual harassment in workplaces. Building a positive workplace safety culture starts at the top.

Time expired.

[11.46 a.m.]

Ms DOW (Braddon - Acting Leader of the Opposition) - Mr Speaker, I thank the Leader of the Greens, Ms Cassy O'Connor, for bringing on this matter of public importance this morning.

There is no doubt that creating cooperative, open, safe, respectful and empowering workplaces that value people and diversity not only drives growth and productivity but also creates secure and safe jobs. This is not just a responsibility of workplace leaders but of everyone who interacts in a workplace - of managers, of colleagues, and of clients and customers.

Leaders and managers are undoubtedly responsible for creating and implementing the relevant values, structures, and procedures. As part of a commitment to a positive workplace culture where unreasonable behaviour is not tolerated, management is also responsible for modelling behaviours to send a clear message to workers that the organisation is serious about preventing workplace bullying and harassment.

Everyone in the workplace also has a role in holding themselves and others to the standards of behaviours that are developed, because everyone in a workplace has a health and safety duty and role in helping prevent workplace bullying and harassment, and developing and maintaining positive workplace cultures.

Workers, including employees, contractors, subcontractors, labour hire employees, out-workers, apprentices, and even volunteers all have a duty to ensure that their acts or omissions do not adversely affect the health, wellbeing and safety of other persons. Other people in the workplace such as visitors and clients also have similar duties to these workers. This extends to taking reasonable care that their acts or omissions do not adversely affect the health and safety of workers or other persons.

On this point I would like to highlight the incredible No One Deserves a Serve campaign which has been rolled out by the SDA to provide a critical reminder to each of us to contribute to safe and respectful workplaces for workers in our retail sector. I also note the incredible work of unions across many industries and the businesses that work with them to ensure best practices are implemented and are at the forefront of workplace safety considerations.

There is undoubtedly greater national attention on the issues of bullying and harassment than there has ever been. This focus and momentum must be seized upon. Taking action on workplace culture is not just good for workers' health, wellbeing and safety and for their mental health, but it is good for business, for productivity, retention, and innovation.

For all these reasons, Tasmanian Labor committed to implementing the recommendations of the review of the model work health and safety laws conducted by

Marie Boland in 2018. We call on the Government to implement changes required to achieve this aim as soon as possible.

Specifically, the review recommended the inclusion of psychological hazards regulations in a model work health and safety act. Such a regulation would require employees to treat hazards to mental health such as stress, occupational violence and aggression, as well as bullying and sexual harassment in the same way as physical hazards in the workplace by identifying specific risks and addressing them.

I note that at the recent meeting of work health and safety ministers, a majority of businesses agreed to amend the model work health and safety regulations to deal with psychological injury. I hope we will see the Government take action soon.

Ms Archer - Yes, I can confirm that.

Ms DOW - That is good; thank you.

These reforms are essential to making Australian workplaces safer and reducing the instances of mental health issues and psychological injuries. These types of injuries affect working people in our community every day. I understand that Australia is one of the only developed nations in the world that does not have equal protections for physical and psychological health and safety.

We know that mental stress is the fastest and one of the only growing causes of injury claims in the workers compensation system. This shows we are simply not doing enough to protect workers from workplace stress and trauma, but regulation and legislation alone is not sufficient. We must take every opportunity to create cultures that encourage people to speak up and raise issues, to call out what they see as inappropriate or where they see an opportunity for improvement, to create procedures and processes that allow people to be heard and to create environments where people are supported and respected.

[11.51 a.m.]

Dr WOODRUFF (Franklin) - Mr Speaker, I want to reflect on power in the workplace and the issue of consent. Obviously we are here today because of the statement made by the member for Franklin yesterday about an alleged incident that occurred in a workplace setting apparently around 2007. I want to come to that statement by the member for Franklin, Mr O'Byrne, yesterday.

Mr SPEAKER - Just be aware that any accusations should be made through a substantive motion, so be very careful where you go with your contribution.

Dr WOODRUFF - Thank you, Mr Speaker, I am not going to make any accusations. I am just going to read the words of the statement and reflect on them. This was a very carefully crafted statement. It was not made off the cuff and it was made to the media, so I am reporting what is in the public domain. It was pretty clear that Mr O'Byrne had considered every single word.

I want to reflect on what an apology looks like and what women, or in this case woman, but anyone who has been the victim of sexual harassment or sexual harassment in the workplace, would expect in an apology. What Mr O'Byrne said in his statement was:

> I acknowledge my behaviour did not meet the standards I would expect of myself.

I found that an extraordinary statement because what does 'would' mean in that sentence? It is not clear what standards Mr O'Byrne expects of himself, but he did not say what he does expect of himself but what he would expect of himself - a future Mr O'Byrne, not the one there talking to the person who has made the complaint. He also said, 'I acknowledge I have let down my wife and family'. That may well be the case, but I want to say - and I have heard this from other women; I believe Brittany Higgins made a comment about this - too often men in positions of power who have sexually harassed women invoke their wife and family and it is a technique which effectively has a softening, if you like, when we invoke women and children. Traditionally that has been to dampen down and ameliorate and bring warm, soft things into a very difficult conversation. From the point of view of the woman who was the complainant, the impact it has had on Mr O'Byrne's wife and family is not very relevant. She is more concerned about the impact it has had on her life.

Mr O'Byrne also said, 'I genuinely thank her for her strength to bring this issue to light'. It is very hard to believe the veracity of the statement he made, given that Mr O'Byrne's first response was to threaten the ABC with legal action if they took the report from the claimant and made it public. His first response was to deny the reality of what the complainant had said, so I do not think there is anything genuine when he said that he thanked her for her strength to bring this issue to light. It is hard to suffer that. He also said:

> I also thank other women who have advocated and spoken about their personal experiences to inform the current national conversation about consent.

In saying that Mr O'Byrne makes it sound like he is part of this national conversation against sexual harassment in the workplace. The reality is he was part of the problem and, by invoking a national conversation with women like Grace Tame and Brittany Higgins, he is avoiding the reality of the sexual harassment that has been alleged and the fundamental situation it was within, which was a workplace. The point is that nowhere in Mr O'Byrne's statement is there any unreserved apology for the abuse of his power over a young female junior employee. He continued:

> At the time I genuinely believed the kiss and text exchanges to be consensual.

He then said:

> This matter has caused me to reflect deeply on the nature of consent and I have to come to appreciate why the person concerned says our interaction was not consensual.

It was not consensual because it could not be consensual and that is the point that Mr O'Byrne clearly does not appreciate. There cannot be consent in that situation. The fact is that people, in this case a young woman, all too often remain silent in workplace situations or apparently consent to sexual harassment, for very legitimate reasons, because they fear reprisal, because they fear for their job security.

That is exactly what is alleged to have happened in this situation. It is alleged by the woman speaking to the complainant that she said she broke down in tears. She was called into a meeting with Mr O'Byrne and given a verbal warning regarding her performance. This was after she had pushed back at the inappropriate text messages and attempts at kisses, so this abuse of power is what really needs to be addressed in this situation.

Time expired.

[11.58 a.m.]

Mr STREET (Franklin) - Mr Speaker, I thank the Leader of the Greens for bringing on this matter of public importance today. There is no doubt that feeling safe at work starts with a positive workplace culture of shared values and behaviours and, above all else, respect, and essentially what we are talking about today is respect for one another.

Each of us in this place are leaders in our community and we have the responsibility to live the values and behaviours expected of us and, quite frankly, to go above and beyond what is expected of us because there is quite a low expectation of politicians out in the community. Meeting community expectations is not enough. W e need to go above and beyond that.

Every person has the right to be heard, to be respected and to feel respected. There is no doubt a conversation has begun in our community. It is a conversation that we need to listen to and contribute to and we need to ensure we are doing more to lead by example.

There is no place for bullying and intimidation and no place for sexual offences in our community, in our homes or in our workplaces. We can make a difference and we must make a difference because as a society we are nowhere near where we need to be, even if we are improving.

When it comes to our community, the Government is taking action. Since the launch of our first nation-leading Safe Homes, Families and Communities Action Plan for family and sexual violence, we have continued to build on our commitment, our investment and scope to respond to family and sexual violence in Tasmania. Our response takes a whole-of-government, multi-agency approach and provides significant investment to deliver on 40 different actions.

We have made good progress over the past six years. In 2019-20 we saw the continued reduction in the number of family violence incidents assessed as high risk, but anything above zero is unacceptable. We might never get to zero, but if we are not aiming for zero, then essentially we are failing in our duty to the community.

We are investing in crisis accommodation through our Affordable Housing Action Plan, and extending the capacity of women's shelters across the state, including Jireh House, Salvation Army and Magnolia Place. My electorate officer, Anna Vincent, runs a clothing and donations drive through my electorate office each year for Jireh House, and the fact that it is getting bigger by the year probably demonstrates that there is a better understanding of the services that places like Jireh House provide for the community.

Previously, we committed to a third family and sexual violence action plan, with fully funded, evidence-based initiatives in consultation with family and sexual violence consultative groups and people with lived experience. These initiatives are important, because community

standards are reflected in workplaces. Workplaces are a microcosm of society, so when it comes to safe workplaces, we need to lead by example, and we need to lead by example with our workplace.

That is why the Premier has requested that the Anti-Discrimination Commissioner undertake a review of the Tasmanian Ministerial and Parliamentary Services (MPS) workplace to ensure a safe and respectful workplace, and reflect best practice in preventing and dealing with workplace discrimination and harassment.

We have requested, as part of the review, that the Commissioner ascertains and understands the existing perceptions of workplace culture within the MPS. The Commissioner will also review existing complaint and reporting mechanisms available to MPS staff, and any cultural or structural barriers that may impede staff making complaints.

The Commissioner will also review the existing legislation and policies that govern responses and outcomes where workplace harassment is found to have occurred, and review existing HR practices within MPS settings.

The Commissioner will provide a report setting out findings and making recommendations. These will include:

- any actions that should be taken to increase awareness of the impact of workplace harassment and improve workplace culture within the MPS, including training in the role of leadership and promoting workplace culture that does not tolerate workplace harassment
- any changes that should be made to the legislative, regulatory, administrative, legal or policy areas to enhance protections against and provide best practice response to workplace harassment within the MPS
- any other actions or changes necessary to ensure a safe and respectful workplace free from workplace harassment within the MPS.

This review will also include all members of parliament, and the people working in whatever capacity in parliament electorate offices or ministerial offices.

Mr Speaker, this is an opportunity to embrace the conversation that is happening across our nation. It is an opportunity for staff to continue to learn from, strengthen and improve a positive workplace culture. We have a duty of care and a legal obligation to the staff working within our workplace to ensure work, health and safety standards are upheld. We need to take this responsibility seriously. We are leaders, and we need to ensure that our workplaces are a reflection of what we expect to be occurring out in the community. We cannot ask the community to hold themselves to a standard of behaviour that we cannot meet in this place or in our offices.

I acknowledge the Premier has worked proactively to support the review to identify what is working well, and any barriers or gaps, and consider recommendations to the Government, which will be laid before this parliament.

I finish by saying that if, as a male, you believe that there is not sexist behaviour or an inherent sexist culture in your workplace, I would encourage you to talk to the women you are close to in your life. It is certainly something that I have done. My sister will hate me mentioning her in this place, but she attained a very senior position with a multinational corporation, and until I broached the subject with her, I was unaware of some of the inherent cultures and practices that were in place, to the point where some of the males in her workplace probably did not even realise that these existed.

It is important that we talk to the women in our workplace and the women in our lives. The only way we are going to improve the culture and the situation in our community is to identify these issues, to bring them to light, to discuss them, and to fix them.

I encourage everybody within this place and outside of this place to do that.

Matter noted.

JUSTICE MISCELLANEOUS (INCREASING JUDICIAL RETIREMENT AGE) BILL 2021 (No. 15)

Second Reading

Continued from 30 June 2021 (page 35).

[12.06 p.m.]

Ms HADDAD (Clark) - Mr Speaker, we began debate on this bill yesterday, and my time expired when I had a little more to contribute.

I reviewed the *Hansard* this morning, and remembered that I was going through some of the community consultation submissions that were received by the Government in the consultation that they conducted on the bill. I had spoken already about the contribution in support of the bill from TALS, the Tasmanian Aboriginal Legal Service.

Additionally, I have spoken about the support provided by the Law Society of Tasmania in their submission, and some of their views about judicial retirement ages.

I had just begun to consider the submission by Bill Rowlings OAM. As I said, I am not familiar with his work, but he describes himself as a private individual and a 20-year researcher in this field. He made a number of comments on the bill. The one I was going to raise is that he expressed a firm view that there is a conflict or a problem in having a change in the judicial retirement aged apply to current sitting judges.

In other words, he was arguing - and I have not come up with a better term for it than a 'grandfathering clause', but it is almost opposite to a grandfathering clause - that an increase in the judicial retirement age should apply only to judges who are appointed after this legislation takes effect.

It is not necessarily a view I share, but I put it on the record in case that was something that was considered by government at the time.

In saying that, he notes in his submission, and others did as well, about needing to have a balance between maintaining the knowledge and experience of the existing judiciary - recognising that it is a particularly onerous job to be a judge or a magistrate, and a great deal of corporate knowledge and ability is held in the heads of those individuals who hold those honoured positions - needing to balance retaining that knowledge and ability, with needing to diversify the bench, so that we have a judiciary, magistrates and judges across the magistrates and supreme courts who reflect the community. In parliament we talk about how it is important that parliament reflects the communities that we represent. I think equally the same could be said of the judiciary.

He quotes from a former High Court judge, Michael Kirby, who said he feels there is a need to increase diversity among judges in Australia, and who talked about his law school clerk days in the 1950s, when only about 4 per cent were women, and non-white Caucasian students were also about 4 per cent. Former Justice Kirby noted the issue does not only concern the judiciary, but also magistrates, senior counsel, law firm partners, summer clerkships, et cetera.

Things are definitely changing. There are more female graduates than male graduates from law school these days, and that has been the case for a number of years. As in many workplaces that have been male-dominated sometimes climbing the ranks is slower for women in the law than it is for men in the law. Notwithstanding we have a female Attorney-General and we have had several former female Attorneys-General, which is good for this parliament and the previous parliaments where female Attorneys-General served.

We have also had several female magistrates and female judges on the Supreme Court. I only go into that detail to recognise the need to balance the retention of diversity and knowledge which is mentioned by the Chief Justice in his annual report. It was one of the reasons for the changes we see in this bill, with the need to increase diversity in age, in gender but also in other demographics across the Magistrates Court, the Supreme Court and other judicial authorities.

That was as much as I was intending to contribute on this bill. Several other contributions were made in support of the bill. There were a few that opposed the bill, predominantly that there should not be any retirement age, arguing that it could be seen as discriminatory to have an arbitrary retirement age. As I said yesterday that is not a view I share as it is a unique position being appointed to be a magistrate or a judge. It does not reflect other kinds of appointments such as holding a job in the private sector or the public sector. There is still an argument to have a retirement age at this stage.

Only New South Wales has increased the retirement age to 75. We will be following what New South Wales does. In most other states and territories it is still either 70 or 72.

I will quote a Hobart lawyer who I will not name. They made their submission in a personal capacity and I have not spoken to that person so I do not feel comfortable saying their name in parliament. They made a very pertinent comment, albeit that I agree with the mandatory retirement age:

> The ability of a judicial officer to undertake their role is dependent on their physical and mental wellbeing. There are many octogenarians who retain full mental capacity, likewise there are many younger people who suffer from early onset cognitive issues.

That person's view was that age is irrelevant. That is a general point about all of us ageing and that many of us will continue working. I cannot imagine people of my generation will ever have the opportunity to retire. Perhaps retirement expectations will be quite different in the coming decades. We will be supporting the bill.

Dr WOODRUFF (Franklin) - Mr Speaker, the Greens are pleased to support this bill. There have been many comments made about the values of increasing the retirement age for judges. It is something in which we are in good company. Ms Haddad, the member for Clark, just said that New South Wales is the other state in Australia at the moment that has increased the retirement age for judges to 75.

This is something that the United Kingdom did this year. I believe their increase was from 70 to 75. They made the change in 1995 for the age of retirement for judges to be 70. The arguments that were made in the United Kingdom for increasing the age to 70 were that the average life expectancy in the male population had risen and that expertise and experience were being lost prematurely and unnecessarily in the judiciary at a time when there was an increasing burden on the judiciary to take an extra number of cases.

The expertise gathered at the later stage of a person's career is incredibly important. The more time you have behind the bench, the more experience you have, the more expertise you garner. The case can be made that you would expect better quality judgments from people in the later stage of their careersfrom the experience of time and watching different events unfold. They have gathered very important experience that you cannot hope to get as a first-year judge. That is a valuable resource to the community.

We are happy to support this extension. I believe the minister said that we are working longer and older in general. That is true, but I want to make the point that not everyone in the community is over the -

Ms Archer - It was statistically that I referred to. The statistic was that we are now - was it not 81 or 84 or something like that?

Dr WOODRUFF - That is right. Outside of this matter of the judiciary, not everyone in the community is happy with the push to increase the retirement age in general unless it is linked with the age at which you can receive the old age pension. Just because we are living longer lives on average, it does not necessarily follow that all work is the sort of work for which we should continue to push up the age of retirement.

For example, working in physically demanding work or emotionally very demanding work, perhaps nursing or working in building or working doing heavy manual care for a person, has a toll on a person. We need to make sure that we give people opportunities to retire at the time that they need to, when they have done a lot of service for the community and that we support them with the aged care pension. I know people who are single, often women in their later 50s and 60s, who can find themselves needing to keep working because they just cannot simply afford to do otherwise.

If the age of the pension continues to go up year on year, it is very harsh for some people who are working demanding jobs to continue to keep working. Many people I speak to in their late 60s are pretty tired and are looking forward to retirement.

Judges relative to other people in the community occupy a privileged position. They are privileged by virtue of income, education and capacity. It is good for individual judges to continue, if they choose, to keep working to the age of 75. It is obviously a benefit for us in Tasmania to have people with that expertise to be able to continue for that precious extra three years. It is not necessarily a one-size-fits-all approach to increasing the age of retirement in other areas. I look forward to this coming into place as soon as it is given royal assent.

[12.20 p.m.]

Mr STREET (Franklin) - Mr Speaker, I do not want to prolong debate on this bill for too long but I want to make a short contribution. The Tasmanian Government is committed to providing a more effective and efficient justice system for all Tasmanians and that is why I support the bill tabled by the Attorney-General and Minister for Justice to increase the mandatory retirement age for judges and magistrates from 72 to 75. It is important to note that these proposed amendments will deliver a number of pragmatic and policy-related benefits and also bring us into line with other state jurisdictions who have also increased their judicial retirement age in recent times.

One of the points touched on by everyone who has spoken is that there are strong arguments for increasing the compulsory age of retirement to 75 because there are concerns around assumptions that are often made about people solely based on their age and assumed capability. If anybody does not think that is true, I will give you the phone number of my grandmother who is 97 years old and is incredibly annoyed that she has to undertake an annual check-up in order to get her driver's licence renewed. I have not said this to her face, but I will say it on camera and show her later. She is the only 97-year-old I know who is still driving herself about and I think an annual check-up is probably a small price to pay to keep your licence, nan. I wanted to put that on the record in this place.

Ms Archer - That's impressive.

Mr STREET - It is. I might slip down the list of favourite grandchildren for that one, but anyway.

Mr Speaker, this is a matter that is strongly advocated against by not only stakeholders such as COTA and Equal Opportunity Commission but also the broader Tasmanian community. We have consistently stated, as part of our plan to secure Tasmania's future, that the Tasmanian Government wants our state to be the best place to live, work, invest and be part of a family, particularly as we grow older.

The Strong, Liveable Communities Active Ageing Plan is our comprehensive whole-of-government strategy to support older Tasmanians and enable them to participate at all levels of our community. As part of the Tasmanian Government's commitment to support older Tasmanians, we have committed $125 000 to enable COTA Tasmania to commence consultations on the review of that plan and to continue their advocacy. Planning for the consultations are on track to start within our first 100 days, as we committed to at the election.

We have also committed to a range of measures designed to ensure that older Tasmanians are respected, protected and cared for in our community. These include measures to mitigate cost-of-living impacts, provide specialised hospital facilities, enhance community delivery of health services and construct new supported accommodation facilities.

We also welcome the work that is underway nationally regarding the Royal Commission into Aged Care Quality and Safety as it examines the quality of care provided in residential and home aged care. We are considering the report of the royal commission into aged care and will ensure its findings inform the development of our future active ageing initiatives and policy. That is why I am pleased to support this bill today, as this is just another action we are taking to ensure that older Tasmanians are both supported and appreciated.

The increase in age restrictions for our judiciary will support the courts' ability to operate effectively while ensuring valuable knowledge from our most experienced judges and magistrates is retained and available to serve the public for longer. It will further ensure that the judiciary is seen as a more attractive career option for experienced and dedicated legal practitioners who want to continue to serve their community. The proposed reforms will also deliver savings to the public purse by allowing for the ability to utilise a judge's experience for longer.

Importantly, the bill strikes an appropriate balance by maintaining predictability in the rotation of the judiciary while recognising that Tasmanians are living and working for longer than they were in 2005 when the retirement age was last increased. The bill supports the Tasmanian Government's positive yield of the capability of people to work competently until later in life. In the past, there have been those in society who have supported a reduced retirement age, citing concerns regarding potential age-related cognitive impairment or similar, and it is important in this regard to note two important points that have been made by previous speakers.

First, I am pleased to note that our contemporary societal attitudes have changed for the better and we have therefore matured in our collective ability to celebrate and promote age equality and thankfully recognise the experience, knowledge and contribution that people can make in the later years of their career.

Second, like most professions, judges and magistrates are subject to appropriate standards in office. It is important to note that even though we are raising the retirement age from 72 to 75, the Australian Institute of Judicial Administration's code of conduct emphasises a judicial officer's responsibility to address any issues to do with ability to discharge their duties. This guide is published on behalf of the Council of Chief Justices of Australia and New Zealand. Two of the general requirements of the conduct guide are that judges have a duty to uphold the status and reputation of the judiciary and avoid conduct which diminishes public confidence in and respect for the judicial office.

Specifically, the guide provides that a judge whose ability to discharge judicial duties is adversely affected by the judge's health or welfare should, of course, raise the matter with the head of jurisdiction. This means that judges and magistrates can raise any such concerns with the Chief Justice or Chief Magistrate as they currently do now when considering retirement.

The policy rationale underpinning this bill reflects an intention to support the courts' ability to operate effectively, retain valuable institutional knowledge longer from our most experienced judges and magistrates, aiding progressing the backlog and, most importantly, recognising that Tasmanians are living and working for longer.

I will finish by making the point that at this stage I think that 75 is an acceptable landing place but I do not think we should be afraid in this place to continue to have these conversations.

I would encourage everyone to have a look at the life expectancy graph. It is heading up, still trajecting upwards at a considerable rate, which is good news, but it means we are going to have to continually have these conversations. Age is a moving topic. We should not be keen to attribute a certain level of capability to age and we certainly should not be afraid to have conversations around retirement age into the future.

[12.27 p.m.]

Ms ARCHER (Clark - Minister for Justice) - Mr Speaker, I thank members for their thoughtful contributions. Following on from a point the member for Franklin, Mr Street, just made, since the last time the judicial retirement age was increased in 2005 from 70 to 72, average life expectancy has increased by three years from approximately 81 years of age to approximately 84 years, which is what I mentioned by interjection when Dr Woodruff was making her contribution. Our average life expectancy has gone up three years and I suppose this increase in retirement age being three years correlates with that.

I also want to sum up a few issues that were raised through the submissions Ms Haddad read from to clarify and state the reason behind some matters in relation to this bill and the motivation or otherwise. The benefits of this policy of increasing the retirement age for the judiciary is that it is our Government's view that the capacity for people to work competently until later in life has increased. The benefits of this bill are to reflect the changing societal norms promoting age equality and meet progressions in average life expectancy which are extending productive working lives.

Average life expectancy has increased from about 80.5 years to about 83.5 years so we just rounded it up but, in any event, it is still three years, and since the mandatory retirement age of 70 was set in the constitution for federal judges the average life expectancy has increased by over 10 years from 73.3 years.

The benefits of this policy also include retaining experience and skill on the bench for much longer, as members have mentioned, and that is a significant factor in this policy position. We have a smaller bench, being a smaller jurisdiction. We are about to complete a process to appoint a seventh judge. We have a smaller profession although we do not exclude other states and territories, even overseas I presume, from applying for these roles. It is common practice that often the appointees or the applicants are from the Tasmanian jurisdiction.

The experience and skill that someone has on the bench is incredibly valued. This allows us to retain that experience for longer. Nothing in this policy is mandatory. It does not require someone to work until they are 75. They can still choose to retire early. No member was suggesting that. It is by no means mandatory. Many of the comments that were made in the submissions we can dismiss on the basis that this is not mandatory. It is not requiring someone to work until that age unless they want to.

The other thing is there are other mechanisms for removal if that was required. I will also run through that process. It is a rare occasion that that occurs.

The benefits of this policy are to assist in progressing the existing court backlog through retention of experience as part of the broader suite of backlog reforms. These include the appointment of the additional judicial officers, both the seventh judge and an additional magistrate.

We also have the court backlog bill, which is due to commence today; the creation of the Criminal and General Division in the Magistrates Court, which is commencing in 2022 and other procedural changes to improve efficiency. Together they ensure that our backlog legislation measures, which include magistrates hearing a majority of applications for preliminary proceeding, mirroring offences and the Misuse of Drugs Act promote expeditious resolution proceedings in the Magistrates Court where possible.

An extension of the sentencing power of the Magistrates Court in terms of crimes, trial summarily, enabling magistrates to hand down a sentence of up to three years for crimes heard in the Magistrates Court means that in conjunction with extending the judicial retirement age we can tackle these backlogs. It is an added benefit. It is not the sole purpose or the reason for this bill but it will help to serve with the consistency of the case load being distributed to our existing judicial officers.

The issue was raised of whether or not this should apply to the current judiciary. This bill does not discriminate between current and future judicial officers. Both current and future judges remain free to retire at 72 if they wish, or at any other time prior to reaching the 75-year mandatory retirement threshold. It only extends their ability to work longer should they wish to do so.

There has also been a lot of commentary, and I suspect that is because we get submissions from other jurisdictions, about whether or not this effects judges' pensions. Unlike other jurisdictions, Tasmania does not maintain a judicial pension scheme. That was phased out and abolished in 1999. We cop a fair bit as members of parliament with members of the public still thinking we receive a pension. We do not. We are on superannuation schemes just like everybody else. That was an initiative of the Howard government and we carried that across to judicial officers in this jurisdiction.

I said I would touch on how we remove judicial officers if they become cognitively impaired while in office. It is important to mention this in this context because the issue is relevant. There is no question of capacity impairment for the current judiciary, but there are processes and expectations to ensure any health issues are addressed. Each judge and magistrate is an independent appointee by the Governor and they form the third arm of government.

The Governor receives a recommendation from me, having gone through the executive. We have a process through cabinet. It is after a formal expression of interest process with an independent expert panel appointed to conduct interviews and make recommendations to me.

There is a very fair process. It is not just putting someone forward. It is an interview process that is carried out by a panel that I appoint with representatives often from the judiciary, a representative of the department, often someone from the Law Society and the Tasmanian Bar and the likes, so there is a judicial protocol in place in Tasmania for the appointment of judges.

The judiciary forms the third arm of government. Their independence is protected by a high threshold for involuntary removal from office, which is an address to the Governor from both houses of parliament. This is pursuant to the Supreme Court (Judges Independence) Act 1857 and the Magistrates Court Act 1987. These powers are traditionally reserved for the most serious cases of misconduct.

However, judges and magistrates are also subject to the Australasian Institute of Judicial Administration's conduct guide, which emphasises their responsibility to address any issues to do with ability to discharge their duties. This guide is published on behalf of the Council of Chief Justices of Australia and New Zealand. That was what the member for Franklin, Mr Street, was referring to. Two of the general requirements of the conduct guide are that judges have a duty to uphold the status and reputations of the judiciary and avoid conduct that diminishes public confidence in and respect for the judicial office.

Specifically, the guide provides that a judge whose ability to discharge judicial duties is adversely affected by the judge's health or welfare should, of course, raise the matter with the head of the jurisdiction. This means that judges should raise any concerns with the Chief Justice or the Chief Magistrate, in the case of magistrates.

Similarly, the chief can initiate that conversation if there appear to be issues regarding an officer's capability. This could lead to the judge or magistrate obtaining a medical assessment, for example. An adverse assessment can inform an officer's consideration of early retirement. That is the process that can be used in case of incapability or incapacity, which are the two most common examples. It is worth mentioning it in the context of this debate.

I also want to cover a couple of other issues. One, not from members, is the inference that the policy might affect refreshment and diversification of the judiciary. The Government does not consider that this modest increase in the mandatory retirement age will have a significant impact on such matters.

It is further noted that the Government is currently considering applications for a new full-time Supreme Court judge, the seventh judge, which is additional to our current six. We also appointed the additional magistrate, Magistrate Hartnett, late last year. There seems to be quite a regular turnover.

We have quite a few magistrates and some retirements coming up, so there is that turnover. I reject the suggestion that this will affect the refreshment and diversification. Not only are we appointing more magistrates and seeing more gender balance - Magistrate Hartnett is a female magistrate and also quite young - in the context of talking about retirement age, she is way off retirement. In appointing some magistrates, we have already looked at that issue and are getting some that will not be retiring for some time.

We have a diverse judiciary at the moment. We can always do better regarding gender diversification but that is always something that gets looked at in the context of basing an appointment on merit.

There was also another suggestion in one of the submissions that the purpose of the policy should not be to enable current judges to make better provision for their retirement. This reason was something that was noted in the Chief Justice's annual report. However, this was not a key consideration in the development of this bill. As outlined, this policy is intended to support the court's ability to operate effectively, to retain valuable institutional knowledge for longer from our most experienced judges and magistrates and to aid in progressing the backlog. Most importantly, it recognises that Tasmanians are living and working for longer than they were in 2005 and it gives judicial officers a choice. This was not a consideration in forming this bill.

I take this opportunity to thank my department for their hard work on the preparation of the bill through OPC who I thank again for their diligent hard work. We in Justice keep the Office of the Parliamentary Counsel very busy. I also thank my department for conducting the consultation process and preparing this bill for today's debate. I thank them and Nat in my office and others who have worked on supporting me in bringing forward this bill.

It may look like a fairly simple bill but the work that goes into these smaller bills is quite extensive because of the consultation process and ensuring that we take all matters raised in submissions into account so we end up with the best bill we possibly can that is well balanced, taking into account all views. Mr Deputy Speaker, I again commend the bill to the House.

Bill read the second time.

Bill read the third time.

LAND USE PLANNING AND APPROVALS AMENDMENT (TASMANIAN PLANNING SCHEME MODIFICATION) 2021 (No. 13)

Bill agreed to by the Legislative Council without amendment.

TREASURY MISCELLANEOUS (COST OF LIVING AND AFFORDABLE HOUSING SUPPORT) BILL 2021 (No. 12)

Bill returned from the Legislative Council with amendments.

Motion by **Mr Ferguson** agreed to -

That the last-mentioned message be taken into consideration forthwith.

Motion agreed to.

TREASURY MISCELLANEOUS (COST OF LIVING AND AFFORDABLE HOUSING SUPPORT) BILL 2021 (No. 12)

In Committee

Clause 7 -
Section 199 amended (Exemptions)

Mr FERGUSON - Mr Deputy Chairman, I move -

That the Council amendment to clause 7 be agreed to.

The Treasury Miscellaneous (Cost of Living and Affordable Housing Support) Bill 2021 was read a third time here last week and I thank everybody for their support. An amendment was proposed in the other place to remove the words 'motor cycles' from clause 7 relating to the waiver of duty on purchase of battery and hydrogen-powered electric vehicles. The effect

of the amendment will be to extend the waiver of duty to electric motor cycles. The Government announced its policy to incentivise Tasmanians to purchase a new or second-hand electric or hydrogen cell motor vehicle so that more Tasmanians can benefit from the transition to electric vehicles with our clean, low cost and reliable renewable energy, reducing the reliance on imported liquid fuels and to reduce transport emissions.

The higher upfront cost has been identified as one of the main barriers for those wishing to make the switch, hence the aim was to increase the number of electric vehicles and hydrogen cell passenger and commercial motor vehicles into the Tasmanian vehicle fleet and the stamp duty waiver has been designed to achieve this effect. The Government's policy reflected in the bill is in line with a number of other jurisdictions. I can inform the House that today other jurisdictions have not incentivised the purchase of electric motor cycles though we understand some other states continue to monitor this policy position.

The amendment proposed in the other House is consistent with the objectives of the Government's policy being to incentivise Tasmanians to consider switching to cleaner electric-powered transport and, naturally enough, like the electric cars, electric motor cycles under this modest amendment would in fact seed additional electric motor cycles intro the Tasmanian fleet and add to the fleet of available vehicles in the second-hand market. It can only be a good thing.

There is currently, I am advised, only a limited market for electric motor cycles in our state and the revenue implications for the extension of the policy, I am advised, is expected to be minimal, so with that said, the Government is comfortable with this amendment.

Mr WINTER - The Opposition supports the amendment put forward in the other place. I was also going to remark that I am not sure there is a strong market for electric motor cycles at this point in time but I am sure we would all like to see that change, so the Opposition is pleased to support the amendment.

Ms O'CONNOR - The Greens will be supporting this amendment too. I want to take the opportunity to ask the minister about an issue that has been raised with us by a number of constituents and it relates directly to what is defined as an electric motor cycle and that is about motorised scooters. We were contacted early this year by people who had come back from Norway and in Norway e-scooters, which I think would be quite different from an e-motorbike, are very commonly used and my understanding is that in Tasmania, because a motorised scooter cannot travel at a speed greater than 10 kilometres an hour, it cannot be registered on Tasmanian roads because it fails to meet minimum safety requirements. For any electric scooter that might have an engine with a 500cc engine - or whatever the terminology is - they cannot be registered on Tasmanian roads, so you can only use that electric scooter on private property.

As Mr Winter said before, we are dealing with quite a nascent market in electric motorbikes, and following the trend of electric vehicles becoming mainstream, it is measures like this, where you extend waivers or duties on registration of electric motorcycles, that will help to drive uptake of those vehicles.

Could the minister address that issue of electric scooters? I am not sure if we have written to you about it, but it has certainly been raised with us by constituents. In a city like nipaluna/Hobart, with massive congestion issues and bottlenecks in Davey and Macquarie

Streets - and frankly a mad idea to put a fifth lane on the Southern Outlet - we do need to be looking at ways to take cars off the road in the city.

Everything we can do to give people alternatives to cars, we need to be doing. I think at some level the minister accepts that, and it is actually refreshing to hear a conservative minister talk about electric vehicles and low-emission vehicles with such enthusiasm -

Mr Ferguson - Passion.

Ms O'CONNOR - Passion. It is excellent. This is an evolving area of public policy and it is also an evolving market. There are plenty of people in cities and towns who would be very glad to drive a registered electric scooter around if the regulations here better facilitated that.

Mr FERGUSON - This question, naturally enough, is outside the scope of the amendment. I have, however, asked for some advice to be rushed into the Chamber.

Ms O'Connor - Not entirely. What is an e-motorcycle relative to an e-scooter?

Mr FERGUSON - It is entirely outside the scope of the amendment, but because I am such a nice person, I like to do my best to respond to you, Ms O'Connor. Good people who support me have rushed to provide me with some advice which I hope will be of some value. Given the nature of this place, I like to get it right every time and not do things on the fly.

I do have some advice which, with the indulgence of the Committee, I will respond. I am excited that the Government is introducing different arrangements to support the use of e-scooters, also known as personal mobility devices. We are working on that right at this time. It is part of our 60-day plan. The aim of the initiative is to make these devices lawful for use on certain types of public infrastructure, such as shared paths.

You may be interested to know that at the recent national Infrastructure and Transport Ministers' Meeting, which I attended, there was a collective approval to amendments to the model rules that provide a nationally consistent base for states and territories to then move on, to legalise PMDs on public infrastructure.

There is some need for different jurisdictions to apply them at their local level, noting that every jurisdiction - with different population densities, different kinds of infrastructure, different pavement surfaces and city designs - needs to apply those locally, and that assessment is what is applying now.

The Department of State Growth is currently progressing the development of various options to amend Tasmania's current regulations that would then safely permit e-scooters and other types of PMDs on public paths and/or roads.

We will be beginning with that new national agreed framework as a basis. It will require some changes to regulations. The ones I am advised will need to be amended will include the Road Rules 2019, the Traffic (Compliance and Enforcement) Regulations 2017 and the Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2021.

We are intending to move on that in July, this month. I look forward to reviewing the advice when I receive that, and then, of course, gazetting and informing the House in the

appropriate way. I am advised that will occur this month. We are on track for this commitment. We really look forward to it.

Just as a quick aside, naturally this is different from the initiative that is before the committee right at this moment, which is about a stamp duty exemption and waiver for two years for electric motorcycles - which I do hold out as distinct from electric scooters.

If you put both of these initiatives side by side, you would recognise that we are about supporting Tasmanians with their mobility solutions that they can identify for themselves. I do agree that as we address congestion through a multipronged approach, this being one of them, allowing people to get about in a different way with the new technology is very innovative.

There is nothing new about scooters; my dad would have had one when he was a boy. What is different is for somebody who is not physically fit enough to push a scooter up a hill such as Hill Street in Hobart, or David Street in Launceston, an electric scooter or even an electric bike is going to potentially help them with a mobility solution, which for them might only be a few kilometres in and out of work or school or university or medical appointment.

It is one less car on the road and less congestion. We are all for that and, with that indulgence accepted by your generosity, Mr Chair, I commend the amendment.

Council amendments agreed to.

Resolution agreed to.

GUARDIANSHIP AND ADMINISTRATION AMENDMENT (ADVANCE CARE DIRECTIVES) BILL 2021 (No. 14)

Second Reading

[12.57 p.m.]

Ms ARCHER (Clark - Minister for Justice) - Mr Deputy Speaker, I move -

That the bill be read the second time.

I am extremely proud to be bringing this bill before the House today. This bill has been my focus for some time, and as we navigated our way through the COVID-19 global pandemic, my department continued to work hard with our stakeholders to still be able to bring this bill for parliament's consideration today.

As members would be aware, the Tasmania Law Reform Institute conducted a very lengthy and comprehensive review into the Guardianship and Administration Act 1995. The report was completed in December 2018 and, given the complex nature of this type of reform and the voluminous nature of the report, as Attorney-General and Minister for Justice I am taking a staged approach to its implementation to ensure all matters can be progressed in a timely manner.

This bill draws on the important work delivered by the Tasmania Law Reform Institute in their review, and the legislative framework for advance care directives it establishes, and is the first in a number of stages to deal with this substantial and often difficult reform.

As I have stated, this bill seeks to amend the Guardianship and Administration Act 1995 - which I refer to as the principal act - for the purpose of establishing a legislative framework for the making and implementation of advance care directives. Advance care directives are instructions about a person's future decision for medical treatment or health care, made by a person when they have decision-making ability, in anticipation of a time when they do not have the ability to make those decisions due to injury or illness.

The bill inserts provisions in the principal act that will enable persons with decision-making ability to give directions in relation to their future health care; ensure that health care is delivered in a manner consistent with those instructions; provide protection for health practitioners and other authorised decision-makers to give effect to an advance care directive; and facilitate the resolution of disputes in relation to the advance care directive.

The bill will increase the confidence of those making advance care directives that their directions, values and preferences are respected at a time when they lack decision-making ability. It also enables those who are providing health care to understand the values, wishes and preferences of a person at a time when they have lost the ability to make decisions and communicate those views.

The bill gives effect to the 2017 Tasmanian House of Assembly Standing Committee on Community Development Inquiry into Palliative Care Report, which recommended that the Tasmanian Government establish a legislative basis for advance care plans.

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

GUARDIANSHIP AND ADMINISTRATION AMENDMENT (ADVANCE CARE DIRECTIVES) BILL 2021 (No. 14)

Second Reading

Resumed from above.

[2.31 p.m.]

Ms ARCHER (Clark - Minister for Justice) - Mr Deputy Speaker, as I was saying, this bill gives effect to the 2017 House of Assembly Standing Committee on Community Development Inquiry into Palliative Care report, which recommended that the Tasmanian Government establish a legislative basis for advance care plans.

It also implements recommendations arising from the Tasmania Law Reform Institute's (TLLR's) review of the Guardianship and Administration Act 1995 final report.

The bill codifies the common law around advance care directives which are already in use in Tasmania. This will bring Tasmania in line with most other jurisdictions that have legislation governing the use of advance care directives. A statutory framework for giving

advance care directives currently exists in every Australian state and territory except New South Wales and Tasmania.

Proceeding with legislation to amend the Guardianship and Administration Act to provide a legislative basis for advance care directives is the first stage of broader reforms to the Guardianship and Administration Act that will be pursued by our Government in successive tranches to fully respond to the TLRR review of the act.

Consistent with this staged approach, the current bill advances key approaches recommended by the TLRR, which it is envisaged will be reflected in future reforms to the principal act. These include a revised test of decision-making ability, a consistent definition of health care, and the inclusion of a greater role for the Public Trustee in providing preliminary assistance to resolve disputes between parties. These changes will ensure that key concepts in the bill are contemporary and reflect best practice.

I will now turn to the key provisions of the bill.

The objects of the bill are to enable adults with decision-making capacity to give future directions about their health care and to ensure their preferences and values are respected. The bill also aims to protect health practitioners and others giving effect to those directions, and to provide mechanisms for disputes to be resolved.

The bill is underpinned by a set of overarching principles, which provide a contemporary rights-based approach to the provision of health care to those who lack decision-making ability. It does not displace common law rights in relation to future health decisions, but provides mechanisms for greater certainty for how those rights may be exercised.

The concept of decision-making ability, in particular, is central to the way in which the new law in relation to advance care directives will operate. The bill provides that the person must have decision-making ability to give an advance care directive, and the advance care directive will only come into effect once that decision-making ability is lost in relation to the decision at hand.

Importantly, the bill contemplates that decision-making ability may fluctuate. It recognises that different decisions require varying levels of decision-making ability, and seeks to support a person making their own decisions for as long as they are able to, and allows for when a person may regain decision-making ability following a period of lost decision-making ability, should this occur.

Once the criteria for impaired decision-making ability have been meet, however, for the purposes of the law of this state, a consent to particular health care given or refused in an advance care directive is taken to be the consent or refusal of the person making the advance care directive.

It has the same effect as if the person who gave the advance care directive were capable of giving such consent or refusal at the time the healthcare decision was required.

The bill does not allow a person to use an advance care directive to appoint an enduring guardian or power of attorney, nor does it provide for the appointment of any other substitute

decision-maker. These appointments will still be made under provisions contained in the principal act.

It does, however, require that any person appointed as an enduring guardian must attest that they have obtained a copy of any advance care directive given by the appointer, and understood its terms. All other persons providing health care to a person with impaired decision-making ability, whether they are an authorised decision-maker or a health practitioner, must also take reasonable steps to ascertain whether that person has an advance care directive, and is to give effect to its terms.

The bill recognises that in the absence of any law to the contrary, an adult is presumed to have decision-making ability in respect of decisions about their health care. It provides an approach to determining whether a person has impaired decision-making based on their ability to make a decision, not on the outcomes of their decision-making process.

The reasonableness of the decisions they make is irrelevant, as any person with capacity has the right to make the healthcare decisions that they choose. Decision-making ability is determined by whether a person has the ability to understand relevant information, retain that information to the extent necessary to make the decision, use or weigh that information in the course of making the decision, or communicate the decision, whether by speech, gesture or other means.

Nor is the existence of a disability a prerequisite for determining whether a person has impaired decision-making ability in respect of the healthcare decision. This approach provides equal rights to people with disability to exercise their legal capacity where they have the ability to make decisions in relation to particular healthcare matters, and ensures that disability is not a standalone test for whether a person has decision-making ability.

This is consistent with the Convention on the Rights of Persons with Disabilities, and represents a significant step towards people with disability being treated equally before the law in respect of future health decision-making. Provisions have also been included to allow children under the age of 18 years to give an advance care directive. Consistent with common law principles, it is proposed that a child who is Gillick-competent be able to document their wishes and instructions in relation to future health care in an advance care directive.

The Gillick principle holds that a child who is a mature minor can consent to their own health care or treatment, provided they have sufficient understanding and intelligence to enable them to fully understand what is proposed. Safeguarding provisions have been included to require an advance care directive prepared by a person under 18 years of age to be witnessed by a registered health practitioner who is qualified to attest that the child is sufficiently mature to make that decision.

I now move to the form of advance care directives and witnessing requirements.

Rather than including a particular form of an advance care directive in the legislation, the bill provides that a form for completing an advance care directive is to be approved by the secretary of the Department of Justice. The intention is to ensure that the form is one that has the greatest input from community stakeholders. In fact, a group of health stakeholders has recently updated the current common law advance care directive form used by the Tasmanian

Health Service, and this excellent work will inform the development of the new form under the act.

To promote access to advance care directives, the bill has not mandated a requirement to seek medical or legal advice to complete the form. This means that individuals can complete the form without assistance. However, a health practitioner may be a witness to the advance care directive, and persons making an advance care directive will be encouraged in the written advance care directive form and related material to seek medical or legal advice to ensure their advance care directives are clear and effective. In addition to completing your advance care directive form the bill provides as much flexibility as possible in the way in which an advance care directive can be given. The ability to give oral directives, under common law, is preserved and it is envisaged that an advance care directive could be completed by other means such as through audio-visual recording.

For those who do not have access to the form, a form of similar effective can also be used. To provide certainty as to the intent of the person making the advance care directive, strict witnessing requirements have been included in the bill. These provisions have been designed as a protective measure to ensure that no undue influence has been placed on the person giving the advance care directive. There must be two people who are not a close relative, carer or person delivering services to the person giving the advance care directive. Witnesses must also certify that the person giving the advance care directive appears to understand the nature and effect of each statement in the advance care directive and that they were not acting under any form of duress or coercion.

In certain circumstances, such as in the case of a child completing an advance care directive or a person giving an oral advance care directive, the bill requires that a registered health practitioner be a witness to the advance care directive. In the case of a person under 18 years of age, the health practitioner will also need to attest that the child has decision-making ability to complete the document.

The bill's definition of health care for the purposes of an advance care directive extends beyond the current definition of medical and dental treatment in the principal act to cover any care, health service, procedure or treatment provided by or under the supervision of a health practitioner for the purposes of diagnosing, preventing, assessing, maintaining or treating a physical condition or mental illness. It also includes a person's ability to give advance care directives in relation to medical research procedure and forensic procedures.

This broad definition of health care will enable those making an advance care directive to provide instructions on a wide range of matters beyond simply medical treatment decisions at the end of life.

The bill provides that certain directives will be void or of no effect. This includes instructions that are unlawful or would require an unlawful act to be performed, refusals of mandatory health care such as that ordered under an assessment order, or a treatment order under the Mental Health Act 2013, or instructions that if given effect would cause a health practitioner or other person to contravene a professional standard or code or otherwise amount to professional misconduct.

If any of these matters are contained in the advance care directive they will not invalidate the advance care directive in its entirety but will void that part of the advance care directive

that is in contravention of the act. This will not prevent a person giving directives about their values and goals of care, what is important to them and what factors they wish to be taken into account when their decision-making capacity is impaired. No restrictions are placed on what may be included in an advance care directive.

The bill provides that certain instructions are binding. Refusals or instructions to withdraw health care that are clear and unambiguous are binding. This is consistent with the common law in relation to advance care directives. The bill provides that health practitioners and authorised decision-makers must give these binding directives effect. All other directives, such as those expressing a person's preferences and values with regard to their future health care, are non-binding.

Non-binding instructions must be complied with as far as is reasonably practicable. They must guide decision-makers and health practitioners in the care they provide. Certain circumstances may give rise to situations where a health practitioner is not obliged to comply with the terms of an advance care directive to provide further safeguards. In particular, where the health practitioner believes on reasonable grounds that the person who gave the advance care directive did not intend the provision to apply in particular circumstances or where the provision is ambiguous or does not appear to reflect the current wishes of the person, where the instructions contained in the advance care directive seek a particular kind of health care, such a provision may only be used to guide a health practitioner. The decision of whether to do so is to be determined by the particular health practitioner on the basis of their clinical expertise and judgment and where the provision of the health care would be futile in the circumstances.

Health practitioners are also not bound to abide by the terms of an advance care directive in circumstances where the health care is urgent or being provided in an emergency. This provision has been included to ensure there is no impediment to health practitioners providing care in circumstances where decisions are required immediately or where it is necessary to administer care to prevent the person from suffering significant pain or distress.

Nor are health practitioners forced to comply with provisions of an advance care directive to which they have a conscientious objection. The bill requires that in such circumstances the patient must be referred to another health practitioner and that no action is taken to provide treatment that would prevent the provisions of the person's advance care directive being given effect.

Under the bill a person can seek to have their advance care directive registered by the Guardianship and Administration Board. This is not a mandatory requirement and an advance care directive is not invalid merely because it has not been registered.

The board may refuse to register the advance care directive if it does not comply with the formal requirements for completing an advance care directive, including the witnessing requirements.

A register for this purpose will be maintained by the board and new regulations will be developed to set out the terms of access to the register.

The bill also includes provisions for a person who wishes to revoke an advance care directive. In the case of a person who has decision-making capacity, the matter will be dealt

with by a simple process of notification made to those who have been given a copy, including any person appointed as an enduring guardianship and the board if the advance care directive has been registered.

In circumstances where a person who lacks decision-making ability may wish to revoke or vary their advance care directive, provisions have been included for an application to the board to make a final determination as to whether the advance care directive should be revoked or varied.

The bill sets out principles that the board must follow in making such decisions to ensure that the revocation or variation genuinely reflects the wishes of the person to whom it relates. Health practitioners, authorised practitioners or other persons acting under the authority of the principal act are afforded protections in civil and criminal liability for acting in accordance with an advance care directive in good faith and without negligence.

Turning to dispute resolution, the powers of the public guardian and the board, the bill sets out comprehensive dispute resolution provisions to enable the differences over the effect and application of an advance care directive to be settled.

The bill confers on the Public Guardian the ability, including through the use of mediation, to provide preliminary assistance in resolving differences between parties. This may include ensuring that all parties are aware of their rights and obligations under the act, identifying issues in dispute, canvassing options that may obviate the need for formal proceedings and facilitating full and open discussion between the parties.

If agreement is reached on ways to resolve the dispute through mediation, the Public Guardian is to record the outcomes and cause a copy to be provided to each of the parties and to the board. At any time during the course of the mediation, the Public Guardian may bring the matter to a close if in their opinion the matter is best dealt with by the board or at the request of a party to the mediation.

Consistent with the current jurisdiction, the bill provides the board with more formal powers in relation to settling disputes over advance care directives. On application, the board may review a matter dealt with by the board and cancel, vary or revoke the agreement. The board also has the power to make binding directions in relation to an advance care directive, including in relation to whether the person making the advance care directive did or did not have decision-making ability to make the advance care directive, whether an advance care directive is valid and whether a person has authority to make a decision in relation to an advance care directive.

These new powers in the bill are in addition to those provided under the principal act that enables the board to, for example, appoint a guardian to act on behalf of the person who has made the advance care directive.

Offence provisions are included in the bill to provide that a person by dishonesty or undue influence must not induce another person to give an advance care directive. That is clause 35G(4). The person must not require another person to give an advance care directive as a precondition of providing a service at clause 35G(5). Parties must act in accordance with any direction made by the board to revoke or vary an advance care directive at clause 35Z(6).

Parties must comply with the determination of the board made in relation to dispute resolution proceedings at section 35ZK(9).

As I noted earlier, a statutory framework for giving advance care directives exists in every state and territory except New South Wales and Tasmania. The bill enables legal recognition of advance care directives made in other jurisdictions as if they were made in Tasmania.

Provisions contained within those advance care directives that are unlawful in Tasmania will, however, continue to be unlawful regardless of their status in the jurisdiction in which they were made. Provisions have been included in the bill to ensure that the authority of superior courts, including the Family Court, are maintained and other legal rights, including the right to prepare an advance care directive under common law are not affected.

In order that the legislation remains relevant, provisions have been included in the bill requiring an independent review of the new Part as soon as practicable after the fifth anniversary of its commencement. This will ensure that provisions contained within the principal act continue to meet community expectations into the future. I am sure that a clear and legally binding framework for giving and implementing advanced care directives will be welcomed by many Tasmanians wishing to give instructions about their future health care.

Public consultation was undertaken on a draft version of this bill and I thank the many individuals and organisations who made comments in response to the draft legislation, and also to Parliamentary Counsel for drafting this legislation which provides a robust and contemporary statutory framework for advance care directives in Tasmania. If I can go off script, Mr Deputy Speaker, a power of work was done on this bill, particularly during COVID-19 by OPC and my department.

The overwhelming sentiment from the public consultation was that the bill provided a welcome addition to advance care planning in Tasmania. I am therefore pleased to commend the bill to the House.

[2.51 p.m.]

Ms HADDAD (Clark) - Mr Deputy Speaker, as the minister said at the conclusion of her second reading speech, I also want to recognise the enormous amount of work that has gone into the preparation of this bill by her department and her office and all the stakeholders I know the Government consulted with in the preparation for this bill.

Prior to that, the Tasmania Law Reform Institute produced a very comprehensive issues paper in 2016 or 2017 that dealt with issues around advance care directives but also broader reform of the guardianship and administration systems in Tasmania. In 2018 it produced probably one of the most comprehensive and longest reports that the Law Reform Institute has produced for government and the bill we are debating today implements a chunk of that large report.

As we have heard the minister tell us in the debates we have had over the last couple of days in parliament, I am of the understanding that there is significant work continuing to progress in her department and office to implement the other parts of that Tasmanian Law Reform Institute report and recommendations into Tasmania's guardianship and administration

system, including issues around the Public Guardian role, which we have talked about at length in Parliament in the last little while.

I do not intend to go back over those arguments today in any way other than to acknowledge that the implementation of advance care directives is an incredibly important and critical part of that work but is only one piece of the puzzle. I am glad to know additional work is occurring to implement the remainder of the recommendations in that Law Reform Institute report and we will look forward to looking at that legislation when the minister brings it forward.

One thing that is overarching in relation to dealing with legislation like this is that it is critically important in any jurisdiction that there are laws in place that enable people's will and preferences to be respected, acknowledged and documented, as well as actually implemented at the time it is needed. The most prevalent time when it is really important to have documents like an advance care directive in place to be respected by medical professionals involved is in your end-of-life care, but an advance care directive could influence medical treatment that could happen at any time of your life. Any one of us could put together an advance care directive that reflects our will, preferences and desires about what kind of medical treatment we wish to receive and in what circumstances.

In preparing for debate on the bill it caused me to reflect of the very landmark and worthwhile debate that this parliament saw when we debated the end-of-life choices bill put forward by the member for Mersey, Mike Gaffney, which was debated at length, as we all remember, in the upper House and then in the lower House. It was one of those times in parliament where although views differed, I believe it was one of the most respectful debates and experiences that the forty-ninth parliament had seen. People across the Chamber were able to express their views freely and respectfully and be respected for those views. That was my experience at least and certainly what I tried to do in my contribution on that bill.

One of things I think was overarching in everybody's contribution whether they were in support of that bill or not was the underlying love, care and hope that we have for our loved ones, our families and ourselves. This is another piece of the puzzle in terms of anticipating tragic events of any kind and thinking about end-of-life care or medical care at a critical time, for example if you were expressing your will and preferences of what kind of care you would wish to receive if you were in an accident. The idea of having to think about what we want or how we would deal with our loved one's wishes in the event of their needing critical medical care, particularly if it is involving end of life or any other critical medical event is not something many of us would relish, but it is vital when we think about those things that there are robust laws that exist so that people's wishes can be adhered to, their dignity protected and their wishes complied with.

I believe this bill is very comprehensive and well-consulted legislation that protects people's rights and obligations, as well as putting in place the framework required for documents or instructions like this to be used, created, stored or found by medical professionals when they need to be implemented. That is really critical and I believe the power of work that has gone into the preparation of this bill means that when the bill takes effect Tasmania will have some of that scaffolding to deal with these critical issues.

As we heard the minister explain, this bill inserts provisions into the Guardianship and Administration Act to provide for the making and implementation of advance care directives.

It provides that a person with decision-making ability may make decisions and give directions about their future health care by giving an advance care directive, which may be given in writing or by any other means. I note that in some of the community consultation contributions some of the stakeholders who contributed to that process discussed the importance of being about to give an advance care directive orally and by means other than in writing.

It also covers witnessing requirements. In the bill they will be prescribed and witnesses are required to test that the person giving the advance care directive is not acting under any form of duress or coercion. That is critically important and also a common theme throughout that Law Reform Institute report, and we discussed earlier in the week that public institutions also have a responsibility to do all they can to ensure there is not duress, coercion or elder abuse in particular. The bill explains that advance care directives can contain binding and non-binding directives, and some of the community consultations also asked questions about how that is to be determined.

We have heard the minister speak about how there are also provisions for people to withdraw or refuse health care at the time that the advance care directive is invoked, as long as that instruction is unambiguous and binding.

The bill makes provisions for circumstances in which health practitioners are not obliged to comply with the terms of an advance care directive, including where the healthcare practitioner believes, on reasonable grounds, that the person who gave the advance care directive did not intend the provision to apply in the particular circumstance; or where the provision is ambiguous or does not appear to reflect the current wishes of the person who gave the advance care directive; and also where the instructions contained in the advance care directive seek a particular kind of health care, where the provision of that health care would be futile in the circumstances; where the health care is urgent or being provided in an emergency; or where the healthcare practitioner has a conscientious objection to providing the care.

I note that one of the community consultation submissions - I cannot remember exactly which one - did ask a question about the conscientious objection provision, and what the instructions will be in terms of recommending alternate health care for that patient.

I might ask that question of the minister for her summing up, because I know it was a key part of the debate when the Tasmanian parliament, before I was here, was dealing with termination of pregnancy legislation. There were very lengthy debates around what were the obligations or responsibilities of medical practitioners to refer patients if they did have a conscientious objection to providing certain health care - and, of course, medical practitioners should absolutely be able to conscientiously object. This issue also came up in the debate in the End-of-Life Choices bill last parliament in terms of referring patients, if they can be, to an alternate provider.

The bill goes on to deal with registration of the advance care directives. It explains that they can be registered, but that they do not have to be registered to take effect. My understanding is that a registry or a system of registering advance care directives will be established, but that advance care directives do not have to be registered in order to take effect. I might ask that question of the minister as well as she takes her feet, to clarify if that is correct.

Also, one of the community consultation submissions asked the question of existing common law advance care directives, which I understand will continue to have effect and can

continue to be created. So, if you have a common law advance care directive already in place, you are not required to create one under the statutory scheme if you do not wish to. However, I think the question was whether or not existing common law advance care directives that existed prior to this legislation coming into force can be registered later once the scheme is up and running if they do not comply with the requirements of the act and the scheme. That makes sense.

Ms Archer - If they do not comply, they cannot be registered.

Ms HADDAD - They cannot be registered. I do not want to misquote, but I think it was either the AMA or the Law Society. I will get to it, because one of the questions from the community consultation was whether existing common law advance care directives could be registered or, in effect, if they cannot be, then that person, if they wished to have a registered advance care directive, would need to enter into a new one under the statutory scheme.

The bill then includes provisions around revoking advance care directives in circumstances where the person still has decision-making ability, and also what happens if that is attempted at a time when that person is determined not to have decision-making ability. It also deals with who has the role of determining that decision-making ability or capacity.

It provides powers to the Guardianship and Administration Board to make the final determination on whether to revoke or vary an advance care directive in circumstances where the person lacks decision-making ability.

It goes on to deal with consent to particular health care to be given or refused in advance care directives, which has the same effect for all purposes, as if the person who gave the advance care directive were capable of giving or refusing such consent at the time the healthcare decision is being made.

It says that a health practitioner, authorised decision-maker or other person acting under the authority of the Guardianship and Administration Act to give effect to an advance care directive is protected from liability for any action taken, or not taken, as long as that action is done in good faith, and without negligence - which is an important protection as well for people providing that medical care.

The Public Guardian will be given the ability to provide assistance to resolve differences over the effect and application of advance care directives, including free mediation, and the board will be given formal powers to make binding directions in relation to advance care directives in the case of disputes.

Importantly, there are also offences created by the bill, including that a person, by dishonesty or undue influence, must not induce another person to give an advance care directive. A person must not require another person to give an advance care directive as a pre-condition of providing service. Parties must act in accordance with any directions made by the board to revoke or vary an advance care directive, and parties must comply with the determination of the board made in relation to dispute resolution proceedings.

The bill also enables the recognition of advance care directives made in other jurisdictions. In your second reading speech, you stated that the common law advance care directives remain in force after the statutory scheme is enacted. Dying with Dignity Tasmania

were worried in their consultation that the bill did not specifically mention common law advance care directives, but that may have been amended since the consultation draft. I just wanted to put on the record confirmation as to whether the common law ones still have effect.

With regard to some of the issues that were raised in the community consultation, I want to make some comments around access to the scheme, creation of advance care directives and some of the other recommendations made by the Law Reform Institute, and also around decision-making capacity.

I will briefly go through a few of those for the purposes of *Hansard*. A number of the community consultation submissions went broadly to the issue of ease of access, accessing the scheme, ease of take-up and ease of ability to create an advance care directive, including issues around witnessing, use of interpreters, dealing with people who have low or no literacy, and also accessing the advance care directive once it is in place, in terms of making health practitioners aware that the advance care directive exists and how to get hold of it.

I will quote from a few of the submissions. The first one is the Australian Nursing and Midwifery Federation submission put forward by their branch secretary, Emily Shepherd. She notes that the ANMF supports the inception of advance care directives into the varied clinical practice environments the ANMF members work in. She notes that since their introduction - so I suppose since the use of them in other forms outside of a statutory scheme - there has been overwhelming feedback from ANMF members across the country that the use of advance care directives is sporadic. There is often confusion when they are presented by a patient or a patient's loved ones at the point of care and there have been times when the advance care directives are not followed at all.

She said ANMF members working in the residential aged care sector generally see more consistent use of advance care directives and upholding of residents' wishes. Often these advance care directives are completed at the time or just prior to entering into residential aged care and therefore have been completed in a methodical manner and involve a transparent communication between all key family members and those involved in care delivery.

However, there have also been reports from members where residents' wishes were not adhered to, particularly when the resident is transferred to the acute care setting. Two things are dealt with there. One is that her members working in the aged care sector generally see advance care directives more frequently but have still seen instances where they have not been complied with, but also her members more broadly working in the nursing profession outside of the aged care sector have found that the use or the adherence to the instructions in an advance care directive have been sporadic and there is often confusion by all involved when an advance care directive is presented by the patient or their loved one.

I can imagine that that would quite easily be the case, particularly in an emergency medicine situation, where medical care is time-critical and where anxieties and tensions are heightened. I can imagine that adding to that mix an advance care directive could be quite disruptive. That, in addition to some of the other community consultation submissions, leads to some questions around culture change and the ability of people to express their wishes, and for health practitioners to be able to easily adapt to a new statutory scheme and access the information on behalf of their patients or people in their care.

A similar concern was raised by the Pharmaceutical Society of Australia whose submission also supports the bill. None of these are in opposition to the bill; they are simply raising particular issues around implementation. The Pharmaceutical Society said they were concerned about how the register of ACDs would be maintained and accessed by institutions and relevant health professionals when needed and go on to say that people need to know that it exists so they will be able to use it effectively to meet the person's desires for care.

They then go on to make some specific comments about where an advance care directive might be relevant in a pharmaceutical setting because that is going to be different from an acute care setting such as an emergency department or an emergency situation in any other medical setting. An example might be the prescribing of antibiotics and when and where might an advance care directive say yes or no; it could be for palliative relief or opposing antibiotics that are prescribed for palliative relief. They could be prescribed for a curative goal such as pneumonia on top of influenza in someone who is very frail.

I suppose they are putting forward that concern on behalf of their members to make sure that if somebody is receiving pharmaceutical products and the pharmacist determines that that person might not have decision-making capacity, how that pharmacist might respond to that situation and, particularly, how they would know to respond to it if that person had put forward in an advance care directive what their wishes were in terms of receiving pharmaceutical products relating to their health care.

Dying with Dignity Tasmania made their submission while parliament was still considering the end-of-life care legislation so they have made some comparisons and comments. One of the questions I put on the record earlier around the use of common law ACDs was one of their concerns as well. They also wanted to know whether or not use of advance care directives will still continue to be free as they are under common law or whether eventually there might be a fee for service or a fee for registration and whether that is anticipated either now or in the future. They also had some concerns around accessing registered ACDs through a register. They say there is no specific reference to any process for gathering and registering directives made before the amended act comes into force, so I suppose that is a broader question.

One of the things I think is important in the act is that it maintains flexibility in terms of a person's individual wishes and desires, but that does then beg the question, because the advance care directives that are not registered are still in force and applicable, of how medical practitioners will gather that information, particularly in an emergency situation, and be able to make sure they are complying with the wishes of their patients.

Norma Jamieson is someone who would be remembered by many members in this House. She was a former member of the upper House; I think she was the member for Murchison. The Attorney will probably remember.

Ms Archer - I think it was, or it could have changed because there have been name changes since.

Ms HADDAD - I cannot remember the name of her seat which is very rude of me, but I certainly remember Norma Jamieson as a member of the upper House who was also a very vocal supporter of the end-of-life care legislation we debated last parliament. I cannot remember the name of the organisation but she wrote to us all at the time. She represents

Christian people of faith who were supportive of end-of-life legislation and I am sure others are familiar with Norma as well. She put in a brief submission that I want to put on the record. It goes again to the ease of access. She is concerned that if the scheme is too complicated it will mean that people will not access it and take up the opportunity to put in place an advance care directive with clear instructions about their wishes and desires for health care and end-of-life care.

She has put forward the idea of something like the way we have organ donation indicated on our driver's licences, an innovative idea that that could be extended to advance care directives possibly in the future so that people could also have indicated on their driver's licence or another document they hold with them. The driver's licence would make sense because most of us have those on us at most times when we are out and about. There could possibly be an opportunity to think about identifying on a personal document like that that the person has an advance care directive, and that would answer some of those other questions about how medical practitioners are to know, particularly in a hurry in emergency situations, that there is an advance care directive for the person in their care.

The Law Reform Institute broadly welcomes the introduction of this bill because it enacts one large part of their report into Tasmania's guardianship and administration system, but they also go through some of the areas where they felt the draft bill needed to be strengthened. They go to some of the broad guiding principles in their recommendations they believe should guide all the new legislation recommended in that report. Those are based on the ALRC's national decision-making principles guide. They believe those principles should guide all reforms to the act, including the reforms contained in this bill. Those national decision-making principles are:

(1) That all adults have an equal right to make decisions that affect their lives and to have those decisions respected.

(2) That people who require support in decision-making must be provided with access to the support necessary for them to make, communicate and participate in decisions that affect their lives.

(3) That decisions that affect a person's life must be directed by the person's will, preferences and rights.

(4) That laws and legal frameworks must contain appropriate and effective safeguards in relation to interventions for people who may require decision-making support, including to prevent abuse and undue influence.

The bill covers all of those. They felt that some of the rights and freedoms contained in clause 35B should be expressed with greater clarity and certainty. It presently states the principle may be unworkable or cause confusion and uncertainty, particularly as Tasmania has no articulated charter of rights and freedoms and the common law must be relied on. The institute recommends that either there be inserted reference to the relevant international conventions. They suggest at the very least the International Convention on Civil and Political Rights and the United Nations Convention on the Rights of People with Disabilities. He mentions that these are referenced in the Evidence Act. There are no doubt other conventions that would be relevant.

They have an overarching recommendation that those principles set out in 35B are expressed in a way that they apply to that part of the act, but specifically they think that 35B subclauses (c), (d), (e), (g), (h) and (i) should be principles that are taken into account in connection with the administration of the entire act, not just 5A. That is a comment from the authors of the report that has led to the production of this bill, that those guiding principles deal with some of those same concepts. I will not read them all into the *Hansard* because I will probably run out of time. By way of example, 35B(c) reads:

> an adult is, in the absence of evidence or a law of the State to the contrary, to be presumed to have decision making ability in respect of decisions about the adult's health care;

Another example, 35B(d) says:

> a person must be allowed to make his or her own decisions about the person's health care and extent that the person is able;

In the briefing that the minister's office and department provided to me and Dr Bastian Seidel earlier in the week and at an earlier briefing in the previous parliament that Anita Dow also attended, we spoke at length about decision-making capacity. I was grateful for the advice that I think has put at ease Dr Seidel's concerns about some of parts of the bill that dealt with decision-making capacity and who has the responsibility for determining that decision-making capacity. In the Law Reform Institute's submission, they put forward the view that those subclauses that I read out should apply to the whole act, not just to Part 5A.

Council on the Ageing Tasmania is a key stakeholder in any legislation that deals with this subject matter. It is the peak body representing older Tasmanians. It raised some of the issues other submissions did, including that education and a public education campaign are going to be key in people understanding not only their rights but their responsibilities and obligations under this statutory scheme.

It also agreed that barriers to the completion of advance care directives and accessing schemes should be minimised. The council said the bill should seek to make it as easy as possible for individuals to make an advance care directive. Unnecessary barriers, such as fees, or cumbersome processes will mean people will find an already challenging process too hard.

The council recommends that access to advance care directive documentation must be easy. They are some of the same points put forward by other stakeholders about once an advance care directive is in place, it is important that it is readily accessible when required. It says that a clear process is required that will allow ready access to advance care directives by health professionals, guardians and people responsible in the advance care directive. To underline the importance of ease of access and the understanding of advance care directives they included many examples and letters as attachments to the submission.

In particular, the council believes that two witnesses being required on the ACD form is too onerous. That was also put forward by another submitter. The Australian Medical Association submission said the AMA was grateful for meetings and briefings with the minister's department, but that it was still concerned about the issue of not requiring the use of accredited interpreters to help with the creation of ACDs. It said that while it accepted that accredited interpreters may not be available for all languages spoken and that there are other

safeguards in the bill to guard against coercion being used to get a person to sign an ACD, they would still prefer accredited interpreters to be used if available, and unaccredited interpreters to be used only as a last resort.

That is an important point to raise, because often what we put into an advance care directive could be deeply personal information and views. Unaccredited interpreters are often a family member or a member of that language-speaking community. We are all small communities in Tasmania, particularly multicultural ethnically diverse communities. People know each other well and might not feel comfortable using a member of their community as their interpreter for creating an ACD.

Palliative Care Tasmania raised with me what provision has been made for people with low or no literacy to access the scheme? We have low literacy rates in Tasmania, and the highest rates of illiteracy and low literacy in the country. It is a relevant factor in putting in place a scheme like this.

The Law Society submission asked about advance care directives made prior to the bill and can existing advance care directives be registered even though they may not comply with the provisions of the act? It is understood that the Guardianship and Administration Board will have discretion to register them. However, there maybe need to be transitional provisions to provide for these documents. That was one of the issues I raised earlier.

With those final comments, I have covered most, if not all, the things I wanted to put on the record. My final comments would be to recognise the enormous amount of work that has gone into producing this legislation. It will be really important, as the scheme is implemented, to watch for unintended situations where people cannot access the scheme and for the parliament and the Government to be responsive to make sure everybody can access the scheme when they need to, and also to recognise the other parts of that Law Reform Institute report that are outside Part 5 which were the recommendations about advance care directives.

I am encouraged that that work is under way in the minister's department and it is vital those pieces of work continue so that the whole of the guardianship and administration system can reflect evidence-based law and best practice for people accessing medical care and all sorts of other parts of the service system mentioned in that report around guardianship and administration.

[3.31 p.m.]

Ms OGILVIE (Clark) - Mr Speaker, I would like to make a contribution in relation to this bill and reflect on a bit more of the history of the work that was done over many years to support and help the minister bring forward this bill. I express my deep thanks and gratitude for the work she has done and I know it has been a power of work.

I was a member of the House of Assembly Standing Committee on Community Development's inquiry into palliative care. This is a bit of a passion area for me, and at the risk of going over sad territory, I obviously had a fairly difficult personal experience with one of my children who died. Consequently I undertook an exercise of deep personal growth but also deep research and study in the area of end-of-life decision-making and drafted and brought forward the Caring (Consent to Medical Treatment) Bill which postulated that we needed advance care directives with a legislative basis. That bill, with great gratitude to Michael Ferguson and the Liberal team, then triggered the inquiry that Joan Rylah chaired and I want

to give Joan a great deal of credit today. Her work on that committee was extensive, it was sensible and balanced, and the palliative care piece, in particular, I think is part of the gap in the conversation around these issues that we have not yet fully addressed.

I thought it was worth traversing some of the recommendations and some of the background and information that was brought forward during that committee inquiry by way of a little refresher. We are now into the third parliamentary term and we are all grappling with these issues. I know it is quite a personal issue for many people and certainly just recently my stepmother unfortunately passed away from dementia so it is very fresh in my mind as well.

The committee in particular was very keen to put palliative care centre stage and that is something I think we could all absolutely agree with. We know of course that it needs to be compassionate, coordinated and holistic with an ongoing sensitivity to people's needs and their personal context. The overwhelming evidence we found when we were doing the committee's work was that there was a great desire for greater control over personal decision-making around end of life. Advance care directives, which at that time were legislated in many states but not all, were covered only in Tasmania under common law, which of course gives a great deal of flexibility but there was also some looseness around their legislative and legal status.

We heard from people saying they had completed an advance care directive, they were using best efforts, they had forms they had pulled off websites in other states and territories, had bits of paper in their pocket which they said were advance care directives, but there was no formal constructed process by which it would be possible and simple for a doctor, a family member or even a patient who wanted to produce an advance care directive or plan around at that time.

The committee's terms of reference were to inquire into and report upon the matter of care of palliative patients generally and specifically the matters of advance care directives, administration and medical treatment to minors - again another consent issue - the administration of emergency medical treatment and matters incidental thereto. There was a deluge of submissions and four public hearings. The committee toured the state and there seemed to be differences around the state in relation to the capacity and resources that were available, particularly in palliative care.

What we ended up finding, and the recommendations will bear this out, was that people want that comprehensive framework for palliative care and to ensure it is available to all Tasmanians, noting there is a future likely increase. We saw this in recent discussions and I was pleased to see funding committed to palliative care as part of that broader discussion we have had, particularly in this Chamber at the beginning of this year.

We have a lot of work to do. I am passionate about this, am very supportive of the bill and I commend the Government for the work that has been done. There will be a phase of implementation and that is an important thing to do. When we are thinking about that, some of the issues that were brought forward in the palliative care inquiry committee might be helpful or instructive to reflect on as we go about the process of creating and implementing a legislative framework for advance care directives. We need to ensure there is consistency, not only around the laws but also in form and format, or at least make it easy for individuals to be able to complete those.

We heard evidence in the palliative care inquiry from those in the medical profession, particularly GPs, who wanted to be able to spend more time with patients on the palliative care pathway, particularly those who were dying. They felt that the current arrangements with the Medicare number they were able to use when they were having consultations with patients was a barrier to spending more time assisting people who were sometimes lifetime patients to do that advance care planning and create the sorts of documentation they needed. It crosses over into wills and estates land as well so there needs to be some synthesis with the directions that are going forward.

One of the recommendations was that the Government be asked to provide unambiguous Medicare funding for general practitioners to offer advance care planning to a patient, regardless of their age. This is a practical thing that would assist to have those deeper human conversations you need to have at that moment. The other big one from a process perspective that makes a lot of sense to me is that improvements be made to a shared medical health record that links to advance care plans.

I recall quite vividly a story that one of the witnesses came to tell us of her mum, who was on the pathway, and the ambulance officers came in the middle of the night but she did not want to be taken to hospital and resuscitated. When she was ready to go, she was ready to go, but there was no way of ensuring they had that information and the family, who had not had the capacity or knowledge to put an advance care plan together felt somewhat let down, and they found it very difficult. They came to tell us this story of the mum who has been taken into hospital and resuscitated, and on it went. Who could not help but be moved by those sorts of stories? The solution is investment in health records and communication, making sure everybody knows what the situation is. That is part of an implementation piece as well, so I hope that does occur.

The adequacy of the provision of palliative care to everyone - but specifically infants and neonatal situations, my passion project - is obviously something everybody would feel is a very important piece of this puzzle. It is very difficult to do an advance care plan in that scenario, of course, because the birthing suite generally does not have patients who can write, but I am pleased to report that over the last two terms more funds have gone into that, and I am, again, very grateful to the Government.

One of the reasons I was really happy to join you was because you make very compassionate and sensible decisions and, as you would appreciate, this is an area which I feel very strongly about.

I was saddened by some of the rhetoric that was happening around this time. I will not name that up, but lack of understanding about what people's full stories might be and the full spectrum of issues with which we have to deal with end-of-life. It is not just people who are competent to make decisions; there is, obviously, a range of people and their ability to make those decisions, and there is nothing harder than making an end-of-life decision for another person. It is a very difficult situation.

Moving on, we want to make sure that whatever we do when it comes to end-of-life planning, but also decision-making and palliative care provision, fits together like a jigsaw puzzle. The Attorney-General is looking at legislative reform across a range of measures in the guardianship space. Some of this is about making sure that there are sufficient funds, making sure people have the knowledge and the access to the right advice at the right time, the

communication of where we are going with these processes, and the scope and weight the documents may have from a legal perspective.

There is, importantly, quite a lot of discussion through this palliative care inquiry in relation to the hugely difficult issue of dementia and the finding that, of course, it would be great if there was earlier and easier access to palliative care services for patients with dementia, including advance care planning.

This is an area in which we can actually do something that is going to be helpful. I would like to congratulate the Government for its commitment to invest in palliative care more generally. It is necessary, it is compassionate, it is good Tasmanian reaction to an ageing population and our desire to make sure everybody in our community is looked after in the best way possible through all stages of their lives.

We also looked at data and investigation and areas that are allied to palliative care - I think it was with COTA and professors of palliative care at the university - particularly in relation to reducing the risk of elder abuse, and particularly of people who are receiving palliative care, who are unwell or in those stages of their life. There was a recommendation around continuous palliative sedation, that it be reported to the Department of Health and Human Services. We just could not get that data because it was not being collected. We need to be very careful about these things, but again, advanced care plans and directives would at least give a signpost.

Some of these can be formulated at a time and a place within a context that then changes dramatically, and that is something that needs to be balanced. What you might write in an advanced care directive as a 20-year-old could be extremely different from what you might write in an advanced care directive as a 52-year-old.

There is also a need - and no doubt this is something the minister and the Government will keep track of - to make sure there is a synthesis of laws across the nation. People move around; they come into different states and territories. I note the minister's comments in her second reading speech around interstate advanced care directives having status under Tasmanian law, which is good. You cannot plan for everything, so no doubt wrinkles will come up - and it will be interesting to see what the watching brief across the implementation of this bill looks like and what comes through when it is implemented, perhaps after a year or so.

We had a good discussion on the need and the deep desire of people for a sense of control in relation to their medical treatment and end-of-life care, particularly the palliative care stage, and it is something that surprised me. When I think palliative care, I always think of the last stages of the dying process, but the university professors and the doctors from the Royal Hobart Hospital who came to speak to us and give that evidence were at pains to point out that palliative care can be a journey, and it can be something which you can delve into over many months, or perhaps even years.

It helped me better understand palliative care, and I will read into the record the World Health Organization's definition:

> Palliative care is an approach that improves the quality of life of patients (adults and children) and their families who are facing problems associated

with life-threatening illness. It prevents and relieves suffering through the early identification, correct assessment and treatment of pain and other problems, whether physical, psychosocial or spiritual.

Palliative care:

- provides relief from pain and other distressing symptoms;
- affirms life and regards dying as a normal process;
- intends never to hasten nor postpone death;
- integrates the psychological and spiritual aspects of patient care;
- offers a support system to help patients to live as actively as possible until death;
- offers a support system to help the family cope during the patient's illness and in their own bereavement;
- uses a team approach to address the needs of patients and their families, including bereavement counselling if indicated;
- will enhance quality of life and may also positively influence the course of illness; and is applicable early in the course illness …

And that was an interesting part -

… in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy; and includes those investigations needed to better understand and manage distressing clinical complications.

That was much broader than I had thought. I guess until you hear the World Health Organization's scope and definition of palliative care, it is easier to think of it purely in medical technical terms, but it is a whole-of-person and whole-of-family experience getting that support into place. It is something that Palliative Care Tasmania drives beautifully, and also something our district nurses do incredibly well. They are hugely compassionate and experienced people.

We know that it is not getting any simpler, but Tasmania has an ageing population and we will see an increase in people referred to palliative care services. We want to see that comprehensive response, to make sure we are doing everything we can do.

Our high incidence of chronic disease places an additional demand on palliative care in Tasmania and right across Australia. There is a need and a desire for communication not just at the user level –the person who wants an advance care directive – but you also need to consider those who advise the person. I know the legal profession, particularly those who do wills and estates, will grapple with this and will probably be the first ones to ask. People's accountants might be asked as well. Advance care planning can cover a range of issues but it is a good thing. Some people call it a living will.

We have some information about elder abuse, and I know COTA is particularly concerned about this. I have been to a number of meetings and discussed this at length with them and they know I am well and truly on board in my support of how we combat elder abuse. Cultural change is one of the issues when we are thinking about palliative care and making sure we connect people to those providers, nurses and service providers who can assist people and have a set of eyes on it in case issues arise that perhaps ought not to be happening.

I am reflecting on the television ads running at the moment in relation to this. I think it is very important that that broad-based communication is out there, an overarching strategic communication around not just palliative care but this issue of advance care planning where we now have an advance from a legal perspective and a legislative basis to be formed. It is like putting the substrata under a house. It is foundational work. It was a gap in the system and I think it is a very sensible and pragmatic approach and a lot of people will breathe a sigh of relief that it has happened.

People have a wide range of views on advance care planning which leads to advance care directives and how people might want to best prepare for end of life. These views are going to differ, they are very individual, they depend on people's contacts and families and their social environment and all of those other elements that make us individuals. There was a consensus coming out of this report that advance care planning is imperative to improve the patient's experience in palliative care because we need to be centred on the person who is framing that document and who is the user of the system.

An advance care directive also allows a person to have the conversations that might be too difficult to start at other times and they are able, perhaps, to record their values, their goals, their concerns and their preferred health and medical care in case they become ill or injured. Of greatest concern are people - myself included - who think, 'If I was unable or in a situation where I didn't have decision-making competency, at the very least there will be an indication of what my hopes and expectations are'. It is a bit like when you are having your first baby and you do a birth plan. You write it all down and think it is all going to be pretty straightforward but probably within the first couple of hours it is out the door because things change and context changes.

I also want to thank Fiona Onslow from the District Nurses who made some really sage and wise points. I have a quote I think is worth placing on the record here today. She says from their and her experience pPeople want choice, control and dignity. They want their symptoms to be well-managed with personal, social and psychosocial support. Dying has become highly institutionalised and deaths in hospital have increased, yet paradoxically the likelihood and timing of death is now more predictable.

I thought that was really interesting to know because our science is good and we do know what those trajectories are, there is more time to prepare for death but dying is not discussed and we are not taking the opportunities we have to help people prepare. I see this as an opportunity to help people prepare for their journey. We need to be very careful and wise in how we do that and who has the conversation and how we document those conversations and those outputs. As I have said, some people refer to advance care plans as living wills, so an example and exemplar of what you might hope would happen should the worst start to happen.

This formalisation of an individual's idea and their expression of what treatment may wish or not wish to undergo is generally a healthy and good thing. They can and may well be done in anticipation of a person being in a state of incapacity that might be known or not known. It might be just a worry or it could be something that is triggered by an illness that is diagnosed, and dementia is a key one of those. There is a journey on that.

There is general agreement that the end-of-life planning stage of life is difficult and challenging, but we are all going to get there in the end so it is something that is in the interests of every single member of the Tasmanian community to turn their mind to, whether it is for

yourself, your parents, your friends or your partners, and to think about those issues. I worry a lot about bereavement, which we have seen in our family recently, but I see more and more as our parents and their cohorts age and I worry about loneliness. I worry about what happens when people lose their partners.

I do not think an advance care directive can help with that but I certainly think it does turn our mind to what the future looks like as we reach that older stage of life and perhaps reach a point where we are not living with a partner anymore in the older stages of life. Anything that can get sensible conversations and engagement happening with people who can help or refer on to others who can help would be a very good thing.

I have spoken a little bit about the need to promote advance care directives and how we might go about that, the elements of the plans and how it will go forward. No doubt it will be subject to regulations and I look forward to seeing those come through the subordinate regulation committee as well.

Mr Ellis - Hear, hear.

Ms OGILVIE - Yes, hear, hear, Mr Ellis. Mr Ellis and I are both members of that committee and we will do a good job on that, I promise.

I want to wrap up by saying that the recommendation of this committee that the Tasmanian Government establish a legislative basis for advance care plans to me it shows that our parliamentary process works. We come in here sometimes and think, 'Words, words, words, what actually gets delivered?', but with this one you can see the journey it has gone through, from the idea to the investigation to the TLRI and to the minister, delivering what needs to happen to fill that gap for the betterment of all Tasmanians, and I am very proud of that. It is a good thing.

I know it is a funny area to have such a degree of passion about but obviously, like many in this Chamber, I have had personal experience. There is nothing harder than making an end-of-life decision on behalf of someone else, and that is one of the key issues. It is not just about the patient, it is about the person, the carer and the parent. It is about those around the person who is going and their ability to manage a situation in which none of us want to find ourselves, but unfortunately it is a fact of life that things happen.

This is really foundational and pivotal change and improvement in relation to end-of-life decision-making law. Some of the waters have been muddied through the discussions of the last couple of years in relation to another element of end-of-life decision-making. But at the core of this is that 100 per cent of people will want palliative care. We are dealing with the big issue and the big picture here and 100 per cent of people will be able to have advance care directives if they choose to record and implement their desires in anticipation of the case where they are concerned about the future and what might happen to them.

That is the reason I have been so passionate about this area. I have been disappointed in some of the rhetoric that flies around from time to time in relation to this, but I will stick to my guns on palliative care. Advance care directives are a way forward. There is more work to be done but I am pleased to see this legislation come forward.

[4.01 p.m.]

Dr WOODRUFF (Franklin) - Mr Speaker, the Greens warmly welcome the changes to introduce and modernise this legal framework, to have a comprehensive human-rights basis to decision-making at the end of life. It is something the Greens have championed as a party. Ms Ogilvie can frown, but Dr Bob Brown, when he was a member of the Tasmanian parliament, brought in the natural death bill. We were the first party to introduce legislation for voluntary assisted dying. Three times it took for that legislation to come to pass. We supported it all the way.

This is part of the same package. It is about recognising that people at every stage of their life ought to have the final decision-making capacity. We should be in charge of what happens to us. We should be in charge of medical interventions. The choice to receive care or not to receive care ought to remain in our hands until the very end of our days. Advance care directives are a form of future planning. They provide us with options for medical interventions and to be as much in control of our end-of-life as we are able to. Many of us have no idea when that moment will be. Only a small proportion of the community have some sense of when that time might be. That is why it is important to have a community conversation about planning for that time, putting our words down and making our views clear, so that the health professionals, lovers, family and friends who are involved in making decisions on our behalf if we cannot make them for ourselves are clear about what our intention is for the medical intervention we receive or do not receive, and how our passing should be managed.

I thank the community advocates who have been working on this issue for decades. This bill is the culmination of work that has been done tirelessly by people gently demanding that we have choices, so that we can die with dignity. I want to mention Margaret Sing and the others from Dying with Dignity who have long worked in this area, as well as people from Palliative Care Tasmania, the Council on the Ageing and Advocacy Tasmania. These people have been working in this space for a long time, advocating for people to make decisions at this time of our life. The number of submissions made to this amendment to the Guardianship and Administration Act are an indication of the interest in the community about amending this law.

I note the people, the bodies, who made submissions:

> Advanced Care Planning Australia, Advocacy Tasmania, the Anglican Church, the Australian Medical Association Tasmania, the ANMF Tasmania, Council on the Ageing (COTA) Tasmania, Dying with Dignity, Li-Ve Tasmania, Intersex Peer Support, the Society of JPs Tasmania, Medical Insurance Group, Palliative Care Tasmania and the Tasmanian Law Reform Institute, as well as Ms Norma Jamieson.

These are the people and groups who were listed on the Department of Justice website as having made contributions. I am aware from the briefing I had with the department staff - thank you for the quality of that briefing - that stakeholder briefings were given to a range of those groups, the Law Society and a number of legal bodies.

There has been an appetite for this legislation. I commend and thank the Tasmanian Law Reform Institute for its comprehensive body of work. It tabled its report on the Guardianship and Administration Act 1995 in December 2018. A section of that report dealt specifically with advance care directives. The Department of Justice has been working through the

recommendations from the Tasmania Law Reform Institute and has adopted all the Institute's recommendations.

The Law Reform Institute noted late last year that a few things had not been included in the exposure draft of the bill. The majority of points made by the TLRI in its submission to this exposure draft have been adopted in the final drafting of the bill we have before us. I have a couple of questions on those things. It is important that body of work has been adopted in this bill because it was rigorous. It outlined the need for very good decision-making criteria on advance care directives.

A strong principle the TLRI recommended for the making of directives, the principle of flexibility, has been incorporated into the bill. An advance care directive should be able to be made in the most flexible but still rigorous and meaningful way, that could be balanced by stringent checks while allowing people to make a directive in a range of different situations and not be so strict that making it is inaccessible to people.

People can use the department form but that is not essential. That is an important point that a number of submissions made, that there should be some flexibility in the manner of a form or the instrument that can be considered a directive, so there will be a standardised form but it does not have to be used.

Importantly, an oral advance care directive can be made where there are two witnesses. I understand that this has been based on the ACT law and the particularities of the making of an oral advance care directive where one of the two people who are witnesses to the directive has to be a health practitioner and the other must not be a person who has an opportunity to make some pecuniary advantage from a person's death, or a close family member or a friend or someone who has some level of formal responsibility for the care of that person. That is a very important distinction that still provides for the opportunity for making an oral advance care directive.

One of the questions I had has been adequately covered in the bill but I will still raise it. It is in relation to people who do not speak English. Palliative Care Tasmania raised a concern that there might a chance that information that was translated by a family or a friend in the making of a directive might not be perfectly relayed and to forestall that possibility the bill requires that an interpreter has to be used to make sure a person's directive is captured precisely, so I think that sounds appropriate. There is always a question about the availability of interpreters. If the minister has any comments which she could make about that it would be appreciated.

One of the submitters made the point that in this COVID-19 world we have stepped up our understanding about the importance of having a variety of interpreters available for good health information to be made available to as many communities as possible, so it would be good if the minister has any information she could give on discussions about how the department might be making advance care directives, the information about that being available to different language communities in Tasmania and the availability of interpreters. Would there be a consideration for some education to those communities about this new law and the making of advance care directives? That would certainly be an excellent thing if that was to happen.

Another important principle in the bill is the test of maturity, where adults under this bill will be assumed to be mature unless proved otherwise rather than in the reverse. Importantly, children will be able to make an advanced care directive to a medical practitioner witnessed by a health practitioner. That is such an important matter. A really important point the bill makes which has been inserted from points that were made during the consultation process is that there is a range of reasons that a health practitioner must not take into account when determining whether a child has adequate decision-making ability to make an advance care directive. In other words, a child or an adult cannot be considered to have impaired decision-making ability in respect of a whole range of reasons that may influence the prejudices or the particular world view of the health practitioner themselves.

In other words, issues to do with an imperfect decision-making ability has nothing to do, for example, with whether a person has engaged in illegal or immoral conduct, they have a particular sexual orientation or express a sexual preference, they are not able to understand matters of a technical or trivial nature, they do not have particular levels of literacy or education, or they can only retain information relative to the decision for a limited amount of time, and so on.

These are really important matters because under section 35D(5) clearly this will be tested with people who have dementia as well as young people and a whole range of other people and it is very important that we have clarity about when a person is of a sound mind and capable of making these sorts of decisions. I really commend that part of the bill.

I want to make some comments about Advocacy Tasmania's concerns. They have made a submission about the advance care directives amendment we have here today but the point they make is about the whole review of the Guardianship and Administration Act which was done by the TLRI. They make some really important points about how these changes that are made today will ultimately fit within the broader review and the recommendations that were made by the TLRI for the rest of the Guardianship and Administration Act.

They make the point that there is a substantial incompatibility between the proposed advance care directive provisions and emergency orders that can be made under the Guardianship and Administration Act and that these things are trying to achieve fundamentally different outcomes. On the one hand they are seeking to empower people with decision-making capacity to make decisions about the future and on the other trying to protect and act in the best interests of people who make 'unreasonable' decisions in the views of the medical profession.

They have found that some of their clients express concerns to them that they are worried that they might be unduly influenced to sign do not resuscitate orders and, on the other hand, they also have clients who have expressed concerns that their capacity to make advance care directives would not be respected. They say that many issues of the act and the bill come down to the definition of disability that is used.

At the moment 'disability' means 'any restriction or lack resulting from any absence, loss or abnormality of mental, psychological, physiological or anatomical structure or function of ability to perform an activity in a normal manner'. That definition undermines the human rights of people with disabilities as equal members of the community. I will not go into a lot more detail about that. We will revisit this, and have already made a number of these points on behalf of people with disabilities, and people who have been suffering unfair, unreasonable

detentions of their liberty that have been made, they say, by the Public Guardian and the Public Trustee. This is definitely an area of reform that must be made immediately.

In relation to the bill before us today, Advocacy Tasmania say the fundamental issue is that the act does not depend on decision-making capacity, whereas advance care directives do. There will often be people who would meet the requirements to make an advance care directive, while at the same time also meeting the requirements for full substitute decision-making under the act. We believe this inconsistency is likely to lead to fundamental harm for people subject to the act, and it can also be addressed by the full act being urgently and forcibly reviewed. They give the example of a man called Andrew, who has a number of medical conditions that restrict his mobility and frequently require him to attend hospital for treatment.

Andrew has very high intellectual capacity and no impairments with his decision-making capacity. At age 21, he experienced a medical event requiring lifesaving emergency treatment to be undertaken. Prior to the event, Andrew had frequently communicated to his treating practitioners that should he require lifesaving emergency treatment, he wished to refuse treatment. His practitioners acknowledged Andrew's wishes and stated that they understood, but reminded him that there was no legal protection for advance care directives. When the event occurred, Andrew was subjected to the lifesaving measures he had specified he did not wish to receive. When asking afterwards why his wishes were not respected, Andrew states that he received a strong impression that medical staff did not respect his capacity to make decisions on the basis of his physical disability. Andrew states that because he uses a wheelchair, it is extremely frequent for people, including medical professionals, to assume he also has an intellectual disability.

Under the proposed amendments, they say, even if Andrew had a formal advance care directive in place, it would be possible for the board to order that Andrew receive lifesaving measures due to the 'reasons of urgency' part of the bill. Andrew has stated he is fearful that even with a formalised advance care directive, he will again be subject to medical intervention he does not want to receive, on the basis that people will assume his disability automatically equates to an inability to make informed decisions.

Andrew's case highlights, they say, the currently existing issue where the framing of the act around disability leads to assumptions that people with disability do not have decision-making capacity. The extremely low bar of evidence, investigation and review of emergency orders has created a disturbing trend of people with disability being placed under emergency orders, when they have no decision-making impairments. The ability for emergency orders to override advance care directives will, therefore, only deepen inequality for people with disability in Tasmania, unless the existing flaws with the act, particularly around emergency orders, are addressed.

So, Mr Speaker, we see how incredibly important it is that the rest of the TLRI recommendations be brought on urgently. Clearly, there is an issue here with this application of the definition of disability in everyday life that is affecting far too many Tasmanians.

If the minister could just comment on the recommendations that Advocacy Tasmania made in relation to this bill, which was that the act is urgently reviewed according to the TLRI recommendations, rather than the advance care directives being implemented in isolation.

I do understand you have talked about this before, about the need to bring on tranches of the bill, and I do accept that.

My question is in light of the concerns Advocacy Tasmania has raised. How will some of the very good things that are in this part of the bill, how do you see them speaking to and informing the work for the rest of the act? I presume that the changes that we have here, because they were recommended by the TLRI, are congruent with all the rest of the changes that are being proposed by the TLRI for the rest the Guardianship and Administration Act. If you could speak to that, I would appreciate it.

Their second recommendation was that the language of the entire act, not just in the advance care directives, be reframed away from disability, to apply to all members of the community equally, in accordance with the TLRI's recommendations on this matter.

They also argue that advance care directives should be binding, and not able to be overridden for reasons of urgency or expediency, to prevent people's decisions being routinely overridden in practice. This is proposed new section 35U.

I understand the arguments that are made for why advance care directives may need to be overridden for urgent and emergency situations. That is because the person may make an advance care directive about not being resuscitated in expectation that it would be applied to a certain life-ending illness. However, where they were receiving surgery, for example, to try to prevent the progression of their illness and lengthen their life, they could have a haemorrhage, and that is the sort of thing that they would want to have managed, so that they did not die on the operating table in that situation.

I do understand that. Nonetheless, I totally see the situation that Advocacy Tasmania is talking about, representing people with disability who are concerned, or experience, they say, their will being overridden by medical professionals who believe they know best about them. That is obviously intolerable.

I wanted to mention something Norma Jamieson noted in her submission, probably in relation to clause 35O - the requirement to make reasonable inquiries as to an advance directive, which requires a health practitioner where, other than in circumstances where urgent care is required, to make reasonable efforts to ascertain whether a person has given an advance care directive. In her submission, Norma Jamieson said, 'It would be a good idea if people had that information in a sort of wallet or card form'. I do not know if there are any discussions about having a standard form. The department has a form on the website, but I am not sure whether the department also has information that would suggest to people they could make a note of the fact that they have an advance care directive already made and keep it on their person.

Maybe this already happens. That is something COTA and other organisations could use and transmit that information to their own stakeholders. It would certainly help with that information being widely available in case a person who is not their regular medical practitioner is taking care of them.

Mr Deputy Speaker, it is important that proposed new section 35W, in relation to conscientious objection, does allow health practitioners to refuse to comply with the provision of the advance care directive only if they also refer the person to another practitioner and not

provide treatment that would prevent the provision of an advance care directive being given effect.

This is a very important point. It goes to the heart of the underlying principle of this bill for us today which is about choice and fundamentally the choice should be in the hands of the person whose life it is, not in the hands of health care practitioners or medical practitioners. It is up to them to listen and for every individual to be empowered to make decisions, to have options to make choices about end-of-life planning, and for medical practitioners to act on that advice we have given them. I am very glad to support this bill.

Time expired.

[4.31 p.m.]

Mr ELLIS (Braddon) - Mr Deputy Speaker, I am pleased to support this bill today and proud to be part of the Government introducing it. Reforms to the Guardianship and Administration Act are the first tranche of reforms the Government will seek to implement. Everyone in this Chamber here today or out in the wider Tasmanian community has to deal with the ultimate unfortunate fact of life that life ends at some point, not only their own lives but those of their loved ones. Therefore it is of great importance to us but also those we love that this reform is implemented, as fundamentally, it will continue to provide dignity for those in their latter years in regard to their care.

I am pleased to support the Government's bill because of the extensive consultation that has been undertaken with the community generally and the Tasmanian Law Reform Institute's recommendations. The organisation Advance Care Planning Australia in their submission explicitly commended the Government for introducing legislative provisions pertaining to advance care directives. If an organisation such as this supports the Government's reforms in this area, that would suggest that they are meaningful and essential reforms that the Government needs to pass through this parliament.

These reforms are vitally important because they will provide genuine peace of mind to older people in our community, as they will feel because they will be protected in the knowledge that their wishes for their own care will be respected and adhered to. I fully support these reforms because of this reason, as it is one of the core functions of government and one of my great commitments to provide a safer community in my home region of the north-west, west coast and King Island. These reforms will provide those vulnerable Tasmanians peace of mind that they will have their wishes honoured and will be protected by the law and their Government.

There is currently confusion in the community - and we saw this during the euthanasia debate - about what advance care directives mean and whether a person's decisions about the care they would like to receive are actually enforced. Currently some Tasmanians have been able to provide these advance care directives through the common law. Unfortunately these directives have limited legal certainty and are subject to confusion in the community. That is why is it paramount that the Guardianship and Administration Act Amendment Bill is passed. The Tasmanian community expects parliament to act when vulnerable people do not feel safe or that their wishes are being adhered to.

The community also expects parliament to act when our systems of laws are outdated, inadequate, unclear or at odds with the views of the public. The community will want the bill

passed because it is what is needed. It is time that the issue of advance care directives stop relying on the common law and this bill will do that, as it will provide the clarity that so many people are seeking at this time of life.

The bill will also provide a proper legislative framework around advance care directives and the obligations which arise when an individual makes an advance care directive. This bill will bring Tasmania into line with other Australian jurisdictions, because currently Tasmania and New South Wales are the only two jurisdictions in the country who do not have specific legislative provisions for advance care directive documents for individuals to identify their preferred care at the end of life. It is important that our state does not slip behind other jurisdictions, especially when it comes to matters such as this that are of the utmost importance and delicacy.

Speaking personally, I know that when I become older, or if I were to become unwell, I cannot escape the fact that life ends at some point, but I would be safe in the knowledge that as I was in my declining years with declining capacity, I still had the personal dignity and self-determination that we all yearn for. It is fundamental for a person to be able to use advance care directives for this purpose. This is so a person, when they are of sound mind and have decision-making capability, is able to lay down a directive on what sort of health care and treatment they want when they do not have those decision-making capabilities any longer. This means they will still have self-determination right up to the end of their life.

The fundamental principles on what the bill is based upon are principles with which the community agrees, such as self-determination, dignity, the avoidance of suffering and strengthening legal requirements in relation to the provision of person-centred care.

One aspect of the bill that stands out to me is the safeguards included to prevent elder abuse. That is something I have spoken about at length in this place and it is an enormous challenge not only for our local communities, our whole state and country, but in ageing populations it is prevalent right around the world.

We were all so shocked and disgusted when we heard, either personally or through the media and the royal commission into aged care, about episodes of elder abuse. The community expects the Government to take action to prevent elder abuse, as it is our job in this place to protect the most vulnerable in our society. We know elder abuse can take a number of different forms and this Government will always seek to take action to stamp it out wherever it pops its ugly head up.

The bill establishes many important things at a critical time in people's lives. One such thing is that adults will be presumed to have decision-making ability unless a health care practitioner reasonably believes that ability no longer exists. This is of great importance, as it establishes an inflexible rule that cannot be taken advantage of. It is a big step for a health practitioner to say that an individual no longer possesses decision-making ability and I am sure this power would be used only in strict circumstances as necessary.

This bill, though, will give peace of mind to people when they reach that point in time where they cannot make their own decisions because of their dwindling capacity. They will have this peace of mind because even though they may become incapable of making their own decisions, they are still subject to their own decisions made prior to that.

This bill will mean a new time for Tasmanians, because we will all end up in the same position in our declining years, if we are lucky, and all Tasmanians should take comfort from this bill as it will allow them to still have autonomy and self-determination, as they will receive the health care and treatment they have already requested and not the health care and treatment which they have not after they have lost their decision-making capability.

We all have our own stories of loved ones who have suffered some of the terrible diseases that come particularly with older age, such as Alzheimer's and dementia, at the end of their lives. We are all justifiably saddened to see our loved ones struggle day to day and requiring assistance with basic daily tasks, such as getting out of bed and eating. It is also saddening when those people who we have loved and in many cases admired for so long, have real trouble with their memory and cognitive ability.

It is particularly heartbreaking to see children whose parents have forgotten them. I am pleased to support this bill because it will give loved ones of older Tasmanians who no longer possess decision-making capability peace of mind. This peace of mind is that as we watch our loved ones struggling to complete those daily tasks we know they are receiving the health care and treatment we know that they wanted to receive.

Although they are struggling immensely we can take comfort that they are still in control of their care through the advance care directive which they made when they were sound of mind and which will be protected by this bill. The bill is comprehensive and understanding of public concerns. That is evidenced by the fact that advance care directives must be made voluntarily. They also cannot be made as a result of dishonesty, inducement or coercion.

It is great that the bill has penalty provisions in place if any of these three criteria are breached, because that would be truly horrific. These are just some of the safeguards in place to prevent elder abuse. As I previously mentioned, elder abuse can take many forms. Unfortunately, some vulnerable elderly people are taken advantage of. Sometimes, in fact most times, this comes from family members who they love very much. It is important that the advance care directives are not compulsory as this reinforces the fundamental principle that this is a bill based on self-determination.

People should be able to have the ability to make a legally binding advance care directive but they should also have the ability to choose whether or not they want to make one at all. The provisions making an advance care directive voluntary and for applying penalties if the directive was made through dishonesty, inducement or coercion is vital in preventing elder abuse.

Family members who seek to take advantage of their vulnerable elderly relatives could do so more freely if the directives were compulsory and if they could get away with dishonesty, inducement or coercion. There are always stories of vulnerable people being taken advantage of by family members for personal gain. We have seen that documented time and again in the royal commission into aged care.

The parliament at every turn should take action to stamp out these episodes of elder abuse. This bill is a golden opportunity for this parliament to do so. If you did not have these protections in place, then the bill would potentially be at risk. Thankfully, those provisions are there. The bill respects self-determination as it will only be available to those who want to

make an advance care directive. It will not be an avenue for people to force someone to make decisions that they do not want to make as there are protections instilled in the bill for just that.

The witnessing provisions included in the bill strengthen the protections against this kind of elder abuse. The directives will be made independently in that a number of types of people are excluded from being a witness. Close relatives, carers, children, or someone with a pecuniary interest in the person's estate cannot be a witness.

These are important safeguards because it will mean that those who are stakeholders in that person's life and financial dealings will not have any influence in the directive. It is a very strong condition and it is one that the community would support. This safeguard will ensure that the directive will be the individual's independent decisions and not someone else's.

The Guardianship and Administration Board is the only one who can make a new directive and who can make changes. This means that, again, the individual is protected against abuse. It will also mean that the witnesses can be confident that a new directive is the true wishes of the person.

Aside from the safeguards in place for the prevention of elder abuse is the legal protections awarded to medical practitioners and others responsible for implementing the instructions given in an advance care directive. These legal protections are important because they will instil confidence in these people, as well as meaning that they can focus on the job of providing care and not worrying about the potential legal actions that could be taken against them.

Another important part of the bill is the fact that the Public Guardian will become a mediator in disputes that may arise from implementing advance care directives. This should bring comfort to Tasmanians as they have the knowledge that the disputes will be settled civilly and independent. The bill will also give the Guardianship and Administration Board an increased range of audits that can be made. These measures are appropriate and will mean that vulnerable individuals in our community are protected.

This bill reflects the Government's priorities as we have been clear about our commitment to this bill and our other actions around important end-of-life services and reforms. This bill continues the Government's efforts in palliative care and end-of-life care. The funding of these items has risen consistently since we came to Government. This is something supported more broadly in the community. It is feedback that I receive in my home on the north west coast.

This bill coincides with the Government's commitment to invest $21 million to improve access to palliative care and end-of-life services for Tasmanians. I am proud to be part of a Government that is making so much effort to improve it. End-of-life care is so important to Tasmanians and we are committed to addressing its issues and improving them.

This bill does tie in with the Strong Liveable Communities: Tasmania's Active Ageing Plan 2017-22. That plan is the Government's strategy to support older Tasmanians and enable them to participate at all levels in our community. The Government is committed to taking action to support older Tasmanians, especially when they are at their most vulnerable.

The Government has taken many more measures to ensure older Tasmanians are respected, protected and cared for in our community. The bill is the first tranche of the

Government's reforms to the Guardianship and Administration Act as the Attorney-General discussed at length. Despite it being the first tranche, it achieves a great deal and it is vital in the Government's commitment to older Tasmanians.

I hope that we can pass this bill through parliament so Tasmanians can begin to enjoy the benefits that this bill will bring to them at the end of their life and so that we can move to the second tranche of the Government's reforms.

[4.49 p.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Mr Deputy Speaker, I am only going to make a brief contribution on the bill.

Ms Archer - I love it when you say that and then you go for half an hour, which is fine. We have plenty of time.

Ms O'CONNOR - You make a fair point, Attorney-General, but I do not want to hold up the business of the House. Dr Woodruff made our substantive contribution and very well at that.

I want to pick up some of the things that Mr Ellis said in his contribution, which was a very thoughtful contribution. We kept hearing the term 'self-determination'. While I appreciate that this is the first tranche of the recommendations that are contained in this mighty tome, the Tasmania Law Reform Institute Review of the Guardianship and Administration Act 1995 (No. 26) -

Ms Archer - Glad you brought it in. It's fairly big, isn't it?

Ms O'CONNOR - It is a hefty report and I would not be truthful if I said I had read it all. There is a whole suite of recommendations in here, and I know this has been raised with you by other speakers, but there is a real issue around self-determination for people who come under emergency orders and guardianship orders, and we would argue that the evidence points to a system at the moment that is not adequately respecting the rights of people who may end up in the health system or a facility associated with the health system to have a say in their care, their future, where they live and what role their family might play in their care.

As a result of the work of Advocacy Tasmania and the fact that people are coming, I am sure, to all members of parliament with stories about the Public Trustee and interactions with the Public Trustee which are far less than satisfactory, we have a folio of stories from our constituents that are really distressing, but more than that, they tell me that we have enabled a system here in Tasmania, through almost an excess of caution or paternalism, that frequently takes away the rights of people and where judgments are being made that rob people of their right to self-determination.

Those judgments are being made in hospitals by doctors and social workers about a person and as soon as an emergency order is in place, that person is effectively robbed of any right to self-determination and their loved ones are not part of a decision-making process in relation to that person.

I argue that this makes us in breach of our UN convention obligations on the rights of persons with disability but also on civil and political rights. It is just not good enough that we

have allowed a system to evolve that is robbing people of their right to self-determination and basically making what we would argue, particularly on a number of the case studies we have looked at, decisions about a person's care without providing that person, should there be some cognitive issue, with the support to have a say. Once a person is put on an emergency order for 28 days, they can be put on a second rolling emergency order for another 28 days and during that period that person is stuck in the system and totally at the mercy of the health care system. It is deeply paternalistic.

There is the story of Jill I told in here last week, but to recap briefly, I used to talk to Jill quite a bit down at Salamanca outside Salamanca Fresh where she would sell tickets for the MS Society. She dedicated her life to raising funds for the Multiple Sclerosis Society. She had a bit of a health issue, ended up in hospital and then basically this woman, who is clearly intelligent and competent, had her rights taken away from her. She has no right to self-determination apparently and is still in the hospital five months after she entered it. Her great frustration is that she just wants to go home. Why would we not have a system that would support Jill and people like her to live in their own home, should that be their choice?

I personally have a concern that there is a financial incentive here for the Public Trustee to take management of people's affairs. I believe they take something like a 6 per cent fee on income in order to manage a person's financial affairs, and if the minister has clearer information on that, I am happy to stand corrected. I am just talking from memory here.

Ms Archer - All that is part of the terms of reference of the review and that will be looked at.

Ms O'CONNOR - I am glad that we are undertaking a review of the interaction between the Guardianship and Administration Act and the Public Trustee, but to reiterate Dr Woodruff's call, it is not to be delayed. Every day that we do not address this is another day that people like Jill or Arthur from George Town and many other people are going to be deprived of their rights. I ask members in this place to reflect on how they would feel if when they are older they injure themselves, or are a bit vague and wind up in hospital, and go through what is arguably a bit of a sneaky assessment, where people are not told that the medical professional who is coming in to talk to them is actually doing an assessment; people like Jill are told they are just coming in for a chat.

There are processes here that are denying people their rights and if it was one of us, just imagine. You go into hospital for health care, you need support, and suddenly a bunch of doctors and social workers are telling you that you are not going home ever again and you have no rights here. That is what happened to Jill, that is what happens to people all over Tasmania at the moment, and that is why Advocacy Tasmania's advocacy at an individual and a systemic level on this issue should be supported by all members in this place.

I completely agree with Mr Ellis - and it is not often that happens - that we need to be supporting people's right to self-determination. We need to be making sure that we are not, through possibly the best of intentions, engaging in another form of elder abuse by taking rights away from people, and it becomes almost state-sanctioned abuse because people are denied a voice, denied a right, not supported to make choices and their families are often completely disempowered in the process.

Can the minister provide some information on a time line? I am not sure that we have had that information yet so that would be really helpful. I will just say that once you give the

Guardianship and Administration Board more powers to make orders, you need to have a real eye on how that power is being exercised, because at the moment people at a time of stress in their lives are being disempowered through the Guardianship and Administration Board process. One of the recommendations of the TLRI is that there needs to be an appeal mechanism to a GAB decision where a group of people who are not part of the original decision are assessing that appeal. I grew up in Queensland and it is a bit like asking the Queensland police service to investigate itself for improper conduct; they were always going to find themselves not guilty.

We need to keep an eye on the people who are making decisions about the lives of our constituents. Jill, for example, was appointed a public guardian she has not seen. Jill's story, which is on the Advocacy Tasmania website, is that all she gets every day is that she is given her pills and she is still sitting there in hospital. She would rather be at Salamanca helping to raise funds for the MS Society, and when you have a look at the video, one of the reasons she was found to not to have capacity to make a decision is that she bought a motorhome and sold it for less than she paid for it. Well, who has not made a stupid decision like that? Who has not bought something and gone, 'I do not really want this or need it or like it', and then you go to sell it and you sell it at a loss. It does not mean you do not have capacity to make decisions.

That is another point that the TLRI makes - we should have the capacity to make bad decisions. This is where you need to check the paternalism of the state because it is in the best interests of the person - and that is why I think there has been a misapplication of the best interests of the person test - to accept that sometimes people make bad decisions. It does not mean they do not have capacity to have self-determination over what happens to them after they are injured and they wind up in the health system.

From what we are hearing, many of the issues stem from decisions that are made on the hospital floor by social workers and by doctors. Once that decision is made, as I said, everything changes for that person and self-determination largely goes out the window. If the Attorney-General could help the House to understand when we will see the terms of reference for the review of the Public Trustee and a time frame for improvements, that would be helpful to the House. More importantly, it would provide some comfort to Advocacy Tasmania and all those families that are affected and afflicted by what we would argue in some cases is the excessive paternalism of the state.

[5.02 p.m.]

Ms ARCHER (Clark - Minister for Justice) - Mr Deputy Speaker, I thank members for their thoughtful contributions on what has been an enormous amount of work for my department but also throughout a difficult time in the past year. It is something that has been a strong focus of mine for some time.

I do not often as the minister or Attorney-General have a strong focus in so many areas, but for this one, having some personal experience with dementia drove me to really want to get this bill on advance care directive sorted as part of the reform from the recommendations of the TLRI. That was at a time when we were talking about end-of-life decisions. It made perfect sense to deal with those issues.

Since then we have had other issues emerge around guardianship and administration. These have been raised both privately and publicly. That is why we called the review into the

Public Trustee. Yesterday, as members now know, I released the terms of reference. They are quite detailed.

I read them into *Hansard* and I also tabled the document. I took the time to read them in because I wanted to demonstrate to members and the community that they were very wide so as to encapsulate and capture the ability for members of the public to provide their concerns, provide personal circumstances dating back over a decade. I think that is a broad enough period to capture a decent amount of instances but also make sure that it still deals with contemporary practice and current practices of the Public Trustee. What will come out of that are issues concerning guardianship and administration and the act which is applicable to the Public Trustee.

It is also applicable, of course, to the Guardianship and Administration Board and also the Public Guardian, so matters from that review will be entirely relevant to the second tranche of these reforms. As I said in my second reading speech, proceeding with legislation to amend the Guardianship and Administration Act to provide a legislative basis for advance care directives is only the first stage of broader reforms to the Guardianship and Administration Act which will be pursued by the Government in successive tranches to fully respond to the TLRI review of the act.

Ms O'Connor brought that review in. It demonstrates, if anyone was watching, the comprehensive nature of that final report from the TLRI. It is lengthy and complex but it is comprehensive as well.

We have had the advantage of the recommendations in relation to advance care directives and also the Tasmanian House of Assembly Standing Committee on Community Development Inquiry into Palliative Care report.

A lot of work has been put into this bill. A lot of what is in this bill advances key approaches recommended by the TLRI which, it is envisaged, will be reflected in future reforms to the principal act. This is in relation to the tests and definitions that have been used. We could have introduced this bill and used the old tests and definitions and tried to change it all later, but I took the approach that we needed to commence that work now. This means that successive reforms following on from the TLRI recommendations will reflect the definitions and tests so they will be consistent.

These include a revised test of decision-making ability, a consistent definition of health care - that is more difficult than it sounds - and the inclusion of a greater role for the Public Guardian in providing preliminary assistance to resolve disputes between parties. These changes will ensure that key concepts in the bill are contemporary and reflect best practice.

I will go soon to all questions that were asked by members but I am starting at the back with a few issues raised by Ms O'Connor as they are fresh in my mind, but also having released the terms of reference for the review yesterday.

This bill, in the absence of any law to the contrary, recognises that an adult is presumed to have decision-making ability in respect to decisions about their health care. That is a presumption. It provides an approach to determining whether a person has impaired decision-making based on their ability to make a decision, not on the outcomes of their decision-making process. That immediately is a different approach.

The reasonableness of the decisions they make is irrelevant, as any person with capacity has the right to make the health care decisions they choose to make. Decision-making ability is determined by whether a person has the ability to understand relevant information, retain that information to the extent necessary to make that decision, use or weigh that information in the course of making a decision or communicate the decision, whether by speech, gesture or other means. Nor is the existence of a disability a prerequisite for determining whether a person has impaired decision-making ability in respect of a health care decision.

I am taking this out of my second reading speech because it is worth re-emphasising these points. This approach provides equal rights to people with disability to exercise their legal capacity where they have the ability to make decisions in relation to particular health care matters and ensures that disability is not a stand-alone test for whether a person has decision-making ability. This is consistent with the Convention on the Rights of Persons with Disabilities and represents a significant step towards people with disability being treated equally before the law in respect to future health decision-making.

I wanted to go over that again because that is the future of these reforms. That is the approach that is taken, the approach that is entrenched in this bill and what we will see in the future reforms that we introduce.

As to a time line, Ms O'Connor, I am not sure if I can give a direct undertaking on specific times other than to say that the review into the Public Trustee will be provided to the Government on 1 November. I expect before that point the department will be currently working on the next stage of the reforms. What comes out of that review will be useful for those reforms. As to whether we get something out for public consultation, I am aiming by the end of this year to get something or at least by early next year. I do not want to do the cynical 31 December release or anything like that. If it did happen to be that, it would really be out of practicality that it took that long. We will endeavour to do everything possible to be able to get something out for consultation by the end of the year and then we will be introducing it next year.

Members have acknowledged in the House that there is a lot of work that goes into these matters. They are complex matters but with this bill at least we are changing the approach and changing the definitions. We have really done a lot of that work already in terms of the definitional changes.

I want to now move to questions asked by members. Ms Haddad asked quite a few so I will start with those. Starting with conscientious objections, she asked what are the obligations and responsibilities on health practitioners? In some circumstances a health practitioner may have a conscientious objection to the provision of health care in accordance with a valid advance care directive. A refusal to have a blood transfusion is an example that comes to mind. Health practitioners have the ability under proposed new section 35U to refuse to comply with the provision of the advance care directive if the health practitioner believes on reasonable grounds that the person who gave the advance care directive did not intend the provision to apply in the particular circumstances, or if the provision is ambiguous, or does not appear to reflect the current wishes of the person who gave the advance care directive. In these circumstances, the health practitioner must make reasonable efforts to consult with any authorised decision-maker and to make a written record of the refusal and the reasons for the refusal in the person's clinical records.

In addition, however, if the health practitioner has a conscientious objection to complying with the provision of an advance care directive, the health practitioner must refer the patient to another health practitioner in the same profession and must not, in any event, provide any treatment that would prevent the provisions of an advance care directive from being given effect. They are the parameters. This approach is consistent with the Medical Board of Australia's code of conduct and will ensure that any conscientious objection does not impede the person's advance care directive from being given effect.

The next question is whether existing common law advance care directives can be registered under this scheme. Proposed new section 35X(3) provides that an advance care directive is not invalidated merely because it has not been registered. There may be various reasons why the advance care directive is not registered. The advance care directive may have been made but the administrative processes to register the advance care directive was not completed prior to it becoming activated. Alternatively, a person may choose not to register the advance care directive.

In circumstances where an advance care directive is not registered, it will be necessary for the person who has made the advance care directive to ensure that health practitioners are aware that they have made an advance care directive. This could include, for example, carrying a card which indicates that they have made an advance care directive and, where it can be found, carrying the advance care directive with them if they are entering a health care facility or providing a copy to any guardian or other authorised decision-maker. We are trying to make the approaches flexible as possible.

Ms Haddad - Okay, but it cannot be registered unless a new one is made.

Ms ARCHER - I will just finish this. Proposed new section 35O requires that if the health practitioner reasonably believes that an adult patient has impaired decision-making ability they either make reasonable efforts to ascertain whether the person has an advance care directive and, if the person is given an advance care directive, obtain a copy of it. In the case of a child the health practitioner has to reasonably believe that the child has given an advance care directive. You will recall in my second reading speech I talked about how that occurs with under-18s. Health facilities are also to take reasonable steps to ascertain whether a person who is being cared for in that facility has made an advance care directive and, if they have, to ensure that a copy is placed on the person's health records.

Whilst the easiest way of accessing an advance care directive is likely to be through accessing the register, it will be incumbent on health practitioners to also use other methods, including asking the patient or any authorised decision-maker whether they have made an advance care directive and seeking a copy of it. An advance care directive is not invalidated merely because it is not registered. Just on that specific point, a common law advance care directive can be registered under this scheme if it complies with that section.

Proposed new section 35X provides that the board may register an advance care directive. It may, however, refuse to register an advance care directive if it does not meet the formal requirements for information and witnessing outlined at proposed new sections 35H, 35I or 35J of the bill. Existing common law advance care directives that meet the formal requirements, therefore, may be able to be registered.

The other question from the Dying with Dignity submission to which Ms Haddad referred was about the bill not specifically mentioning common law advance care directives and she was seeking confirmation they still apply. Proposed new section 35ZL provides that the legislation does not affect the validity of common law advance care directives. This means that if a person has made an advance care directive prior to the act coming into force or instructions about health care are not given in an advance care directive under the legislation, they remain valid as long as they meet common law requirements.

As outlined in the TLRI final report at page 97:

> At common law, an ACD must be respected and given effect where:
>
> - it was made voluntarily by a capable adult;
> - it is clear and unambiguous;
> - it extends to the situation at hand; and
> - their circumstances have not changed such that the person would no longer intend it to apply.

This is consistent with the precedent established in Hunter and New England Area Health Service v A, which is at 2009 NSWSC 761. This case was heard in New South Wales. In the Tasmanian context, the validity or otherwise of common law advance care directives has yet to be judicially considered. The advantage of establishing a clear legal framework for advance care directives is that it sets out statutory criteria for the validity of an advance care directive and encourages consistency and accuracy in the way in which a person's instructions about future health care are documented.

The next question is from the ANMF submission which had concerns about the practical use of advance care directives and that the acute care setting generally is not as good as the aged care sector, a culture change would be required and there would be a need for practitioners to adopt a new framework. While this is ultimately a matter for the Tasmanian Health Service, I can confirm that a significant amount of work has been undertaken in recent years, including the establishment of a working group in 2019 to review and revise the THS standard form for advance care directives.

This work involves significant consultation and feedback as part of the broader initiative of Compassionate Communities. The THS also released a statewide protocol in June 2020 regarding use of advance care directives as part of a patient's plan of care. Clause 35O, dealing with the requirement to make reasonable inquiries as to advance care directives, requires a health practitioner - other than in circumstances where urgent health care is required - to make reasonable efforts to ascertain whether a person has given an advance care directive. It also requires healthcare facilities to take reasonable steps to ascertain whether a person has an advance care directive and, if they do, to place a copy on the person's health records at the facility.

Another question from Ms Haddad was about the fee for registration. I can confirm that the bill deliberately provides no power to collect a fee, because it is free.

Next question: can advance care directives be registered on a driver's licence? This suggestion was noted as part of the consultation that was done. We do not currently have other information such as organ donor on licences. The register, as described in the bill, was considered the best approach. The provisions in the bill make it clear that the register is available so that advance care directives can be accessed as appropriate, and other provisions require hospitals and aged care services to keep an advance care directive on their record. That approach is considered the best approach.

Another question: why are the principles outlined in this bill not extended to the entire act? This is basically going to be in subsequent reform, or will be dealt with as part of the next tranches. What I am referring to is tranches. So, the second-tranche work is underway, and we are continuing to progress these reforms for the entire act. As I have explained publicly throughout this week and earlier in my contribution, it has been necessary to adopt a staged approach because of the complexity of this type of reform and the voluminous nature of the TLRI's final report.

My concern was that if we did not adopt a staged approach, it could take several years. I would not like to see this act take up to five years to complete everything, and be waiting that amount of time, when we could deal with this and with the next reform in relation to vulnerable Tasmanians as quickly as possible.

Another question was about the accessibility of the form. The current form is available on the Health website now. This will continue to be available as the department works to implement any required changes. We will also work with the Guardianship and Administration board to ensure that it will also be available on their website and through the Public Guardian's office.

There will also be a comprehensive community awareness and education campaign to ensure Tasmanians are aware of where to access this information and advice. The definition of the advance care directive form also allows for forms to that similar effect. We need to ensure that you can find these forms in the most obvious places. The most obvious places are the ones that I have mentioned - through the Health service, the Public Guardian, the Guardianship and Administration board. We need to make sure they are accessible to Tasmanians, or at least that some of our service bodies know how to refer people through to where to find this information as well.

Another question is whether the requirement of two witnesses in the execution of an advance care directive is too onerous. The witnessing provisions included in section 35I of the bill are deliberately stringent to provide safeguards against any duress or coercion in making the advance care directive, and to ensure to the best possible standard that the advance care directive reflects the true wishes of the person making it. Not unlike a will, we need to ensure that these important documents are not made under any duress or coercion, and that is the reason for the consistent two-witness approach.

The witnessing provisions also reflect the seriousness of the types of directions that may be included in an advance care directive, and the importance that any advance care directive is made in full knowledge of the implications of doing so.

We are dealing with life and death situations, so these decisions and these documents need to be made without duress or coercion, and with the full knowledge of capacity of their impact and effect. With written advance care directives, each witness is required to certify:

- that he or she is satisfied as to the identity of the person giving the advance care directive.
- that the person giving the advance care directive appears to understand that the advance care directive is about future health care.
- that the person giving the advance care directive appears to understand the nature and effect of each statement contained in the advance care directive.
- that, in the opinion of the witness, the person giving the advance care directive did not appear to be acting under any form of duress or coercion.
- that in the opinion of the witness, the provisions contained in the advance care directive reflect the directions, preferences and values of the person making the advance care directive.

The regulation-making powers have been included so that other requirements may be included for both written and non-written advance care directives.

It is worth noting that the bill also outlines categories of persons who cannot be a witness. These provisions have been included to ensure that any witnesses to an advance care directive are genuinely independent of the person making it. This protects both parties in that regard.

Proposed new section 35I(5) provides that a witness cannot be:

- a close relative of the person giving the advance care directive.
- a carer of the person giving the advance care directive.
- anyone who has assisted with the completion of the advance care directive form.
- a person under the age of 18 years.
- a person with pecuniary interest in the estate of the person giving the advance care directive.
- a person in a position of authority in a hospital, hospice nursing home or other facility where the person giving the advance care directive resides.
- or a person appointed as a guardian for the person giving the advance care directive.

The Government considers that these arrangements provide appropriate safeguards for persons making an advance care directive. They are stringent, and unapologetically so.

Another question from Ms Haddad was about interpreters. Must they be accredited? The bill now requires an interpreter to be qualified, and provides safeguards around conflicts of interest as well, at the proposed new section 35J.

Ms Haddad - Through you, Mr Deputy Speaker, is it now a requirement that registered interpreters must be qualified?

Ms ARCHER - Yes, they have to be qualified.

Moving to Dr Woodruff's questions. First, for those who do not speak English, there are requirements around interpreters. Are there enough interpreters available? Currently there is the availability of accessing telephone interpreters in the event a physical person cannot be present or available. The Government will address the availability of information on advance care directives as part of the broad community education and awareness campaign. I believe Dr Woodruff was also interested in ensuring that people from CALD communities, that is culturally and linguistically diverse communities (CALD) could find out about advance care directives as well. That is what I am addressing there.

This availability of information may include taking up offers for assistance by many stakeholders. Many of them, such as Palliative Care Tasmania, among others, have said they would be willing to work on this with government, to provide this information more broadly. I assume organisations like Migrant Resource Centre would be very helpful.

Ms O'Connor - Sorry, Attorney-General, would you mind repeating to me which organisations have said they are happy to -

Ms ARCHER - The example I gave was Palliative Care Tasmania. That is the example I have cited but I am aware that there are a number of organisations. We would be in contact with relevant organisations. In relation to non-English speaking people we would seek to get information out through the Migrant Resource Centre and others as well. It is not unusual for my department to work with Communities Tasmania on things like that. They obviously have databases of all the community organisations. With something like this it is critical that we get the information out to Tasmanians.

I was invited to comment on Advocacy Tasmania's submission regarding the broader Guardianship and Administration Board reforms and how this bill would inform the future changes which I did at the start of my contribution in response to Ms O'Connor making the same point.

As I said, the second tranche is under way. We will also include the outcomes from the Public Trustee Review. I expect a lot of information will be forthcoming from that that we can use for the next part of this reform. With this bill the definitions and tests that have been reformed will be used throughout the bill.

Dr Woodruff asked in what circumstances can the Public Guardian or the Guardianship and Administration Board override an advance care directive? She asked whether that was via an emergency order? The board or the Public Guardian cannot override an advance care directive.

Ms O'Connor - It is not an override. Is there not a provision in the legislation where health practitioners cannot comply? That is different from GAB.

Ms ARCHER - Yes, the board is bound to act in accordance with the objects at proposed new section 35A and the principles as proposed new section 35B of Part 5A and is required by virtue of proposed new section 35ZH to exercise its dispute resolution powers in relation to advance care directives in a way that seeks, 'as far as is reasonably practicable, to give full

effect to the directions, preferences and values of the person who gave the advance care directive'. That is the specific of what they are bound to do.

Authority is, however, given to the board to vary or revoke an advance care directive where a person has impaired decision-making ability and to make a determination in relation to the advance care directive as part of its dispute resolution functions.

Ms O'Connor - For clarity, Dr Woodruff's question was about the capacity of GAB or the Public Guardian to override an advance care directive. What you just said is that they could 'vary' or 'revoke' an advance care directive, which I think would have been what Dr Woodruff was asking about.

Ms ARCHER - Dr Woodruff was also asking about emergency situations. I can read something out: it is important to note that they are not bound to abide by the terms of an advance care directive in circumstances where the health care is urgent or being provided in an emergency. This provision has been included to ensure there is no impediment to health practitioners providing care in circumstances where decisions are required immediately, or where it is necessary to administer care to prevent a person from suffering significant pain or distress.

The board is bound to act in accordance with the objects and principles and it seeks as far as is reasonably practical to give full effect to the directions, preferences and values of the person who gave the advance care directive. Its only ability to vary or revoke an advance care directive is where a person has impaired decision-making ability. There are strict criteria there and it can only do that in certain circumstances.

Ms O'Connor - Can I just ask for clarity, does that mean a person, for example, could prepare an advance care directive, register it, then 10 years later wind up in the health system and the guardianship board or the Public Guardian could, at that point, revoke or vary an advance care directive?

Ms ARCHER - Only in the circumstances where it is permitted to do so.

Ms O'Connor - It is permitted where it is the judgment of the GAB or the Public Trustee that the person does not have decision-making ability?

Ms ARCHER - That is correct. Pursuant to proposed new section 35Z -

Ms O'Connor - Can you see that is potentially problematic?

Ms ARCHER - It is intended to provide appropriate flexibility to enable the board to determine whether the terms of the original advance care directive should apply in the circumstances.

Ms O'Connor - I think that is problematic. Was that in the TLRI's recommendations?

Ms ARCHER - This may help, Ms O'Connor. At 35Z(4) -

> Subject to subsection (5), the Board may, on application under subsection (1) and after a hearing, revoke or vary an advance care directive if the Board is satisfied that -
>
> (a) the person who gave the advance care directive wishes to revoke …;

It is actually the person wishes to revoke or vary the advance care directive.

> (b) the person who gave the advance care directive understands the nature and consequences of the revocation or variation; and
>
> (c) the revocation or variation genuinely reflects the wishes of the person; and
>
> (d) the revocation or variation is, in all the circumstances, appropriate.

It is only on a person's wishes. That clarifies that. Is that sufficient?

Ms O'Connor - Yes.

Ms ARCHER - Thank you. That was the last question I needed to address.

Can I do my usual thankyous? I am pleased I have time to do it. Although I have already said it a couple of times, I sincerely thank the department for all their work. Our staff at SLP do a fabulous job. There are never enough of them, I am sure. They are very stretched - I was going to say at the moment, but they are very stretched all the time because we are doing so much law reform. They truly do incredible work and very valuable work at that. Thank you to them.

Thank you to Nat, who has joined my team and has her head around all this in a very short space of time. Also everyone else in my office including the chief of staff; it has been a busy week. I again thank Robyn and her team at OPC who continue to do wonderful work and thank members also for their thoughtful contributions today.

There has not seemed to be an indication we are going into Committee but I should not pre-empt that. The Leader of the House is saying we are not going into Committee. I thank members because there have been many questions along the way and it did give me an opportunity to clarify a few things.

Thank you to the House for the indulgence of allowing us to take up the entire afternoon on this but it is a very important topic, as members have acknowledged. It is one of those topics that is difficult for us all but it is valuable work and that second tranche reform is going to be significant. We all sympathise with many of the issues that are being aired publicly at the moment. We need to get to the bottom of a lot of that. I am very confident that the terms of reference of that review will achieve that outcome.

By way of note, I expect to indicate the independent reviewer very soon so that that work can get underway quickly and report back by 1 November.

Bill read the second time.

Bill read the third time.

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

First Reading

Bill presented by Mr Barnett and read the first time.

STATEMENT BY SPEAKER

Presentation of Address-in-Reply

Mr SPEAKER - Honourable members, I have the honour to report to the House that accompanied by the mover and the seconder, I attended at Government House today, 1 July, and presented Her Excellency the Governor the Address-in-Reply agreed to on 30 June, and that Her Excellency was pleased to reply as follows -

> Mr Speaker and the honourable members of the House of Assembly, on behalf of Her Majesty the Queen, I thank you for your Address.
>
> Barbara Baker
> Governor.

ADJOURNMENT

[5.43 p.m.]

Mr FERGUSON (Bass - Leader of the House) - Mr Speaker, I move -

> That the House do now adjourn.

Fiftieth Parliament of Tasmania

[5.44 p.m.]

Mr FERGUSON (Bass - Minister for Finance) - Mr Speaker, I rise to speak briefly at the conclusion of the session. I have a lot of wonderful feelings in my heart as to the return of the Gutwein Liberal majority Government for our historic third term. It has been for us a time of great excitement and joy but also gratitude as we have reflected throughout the Address-in-Reply already, and a great sense of thanks to the people of Tasmania. We will not betray their trust. We are in their trust and we are here to make decisions to support the quality

of life, safety and the growth in our economy for the people of Tasmania in every region, every town and city that makes up this wonderful state.

Mr Speaker, very briefly I want to say with the opening of parliament last week, it was such a delight for the opening of the Fiftieth Parliament with a worship service at St David's Cathedral.

I have been in this House for four terms now, or I should say this is my fourth parliament, and I believe it was the most attended church service we have ever had in that time. It was refreshing. Not everybody there would call themselves a Christian and it was wonderful that people felt free and welcome to attend the church service.

We have already heard many speakers from around the Chamber dwell on the Bible readings and the messages provided from the different faith leaders, together with the message or sermon from the bishop which cut to the issues of not just how we look after people in Tasmania through being a member of parliament but how we treat each other as well, and those words have been well covered.

It was marvellous to have our new Governor, the Honourable Barbara Baker AC, in attendance for the opening of the new parliament as well, together with the welcoming of new members to the House. I am grateful and feel enriched to have listened to the words, which were very differently expressed in substance and style but they showed the personality and what is inside new members. I am grateful for that and I thank those people and their families for being part of the first session of the Fiftieth Parliament.

From a personal point of view, I feel delighted that my friend and colleague, Madeleine Ogilvie, has joined the Liberal Party and is seated here on this side of the Chamber, entrenched as part of the Liberal team. Madeleine brings a breath of fresh air. As people who have worked with her before know, she has a refreshing style that represents her community well. She is a wonderful and valued member of the Liberal team and we will never look back.

In conclusion, this parliament and the return and re-election of the Liberal Government, for us it is like a new life that has re-entered our team. We are moving away for some of the division, or rather I should say from some of the uncertainty that was presented in the previous parliament.

We see that the Tasmanian people have had their say. They have settled that matter and they have said that the team with the plan they want to rely on is the Gutwein Liberal majority team. Hare Clark being what it is, the incredible vote of the Premier in Bass, the incredible somewhat near doubling of the vote of Liberal versus Labor and on two-party preferred, was something around 58-42. We feel so energised.

It is not with arrogance or hubris, it is with humility and gratitude that we say thank you to the people of Tasmania for returning us. Thank you to members on the crossbench and Mr Winter as the new Manager of Opposition Business for the housekeeping as we have set up this new parliament. We are off to a great start and I look forward to seeing everybody for the budget session.

Fiftieth Parliament of Tasmania - Faith Service
Development in Protected Areas

[5.47 p.m.]

Ms O'CONNOR (Clark - Leader of the Greens) - Mr Speaker, before I move onto the subject that brings me to my feet, today I also want to acknowledge the outstanding service that was provided by church leaders from across the Christian faiths at the start of parliament last Tuesday. As Mr Ferguson knows, there was a whole range of readings and contributions but it was Bishop Condie's contribution which I read part of into the *Hansard* last week that really struck a chord with me about the potential to do things differently.

I did have a bit of a crack at one of my favourite church leaders, the Reverend Richard Humphrey, at another church event I attended last Friday night which was put on by the Baptist community about the role of religion and spirituality in Tasmania's future. Although I immediately confess I am not a Christian, I found it an incredibly moving and engaging conversation. However, I did say to Reverend Humphrey on the night that it was a shame there were not more women giving presentations at that opening ceremony at the church. He quipped, because he is a very funny man, that he was wearing a dress.

Mr Speaker, I move -

> To table a document that was provided to the Greens this morning by representatives from 18 community and environmental groups.

It has been circulated to Government and Opposition members and the Independent member for Clark. It calls on the Government to stop the secrecy around development in protected areas. This is the statement that I will now read into the *Hansard*:

> Stop the Secrets
>
> Thursday 1 July 2021
>
> Community calling for transparency and integrity. Stop the secrets.
>
> Statement to the honourable representatives of the fiftieth Tasmanian Parliament.
>
> Tasmanians are tired of being kept in the dark by their elected representatives and the public service, be it issues related to health, welfare, planning, our national parks, our marine environment, aged care, disability, et cetera. We deserve transparency in the processes with which information that is in the public interest is handled.
>
> Our primary request to the new parliament is to amend the Right to Information Act 2009 to ensure transparency and development proposals for certain environmentally significant areas. This amended act may be cited as the Right to Information (Developments in Parks Public Protected Areas) Bill 2021.

> Section 33 Division 2, 'exemptions subject to public interest test' public interest test of the principal act 2009 is amended by inserting the following subsection in section 33(4):
>
> The exemptions contained in this Division shall not apply to information that relates to a proposed use or development in a conservation area, national park, nature recreation area, nature reserve, public reserve, reserved land or state reserve.

Mr Speaker, I pause at this moment to remind the House that we have tabled a bill which was provided to us, which we have improved, because the original bill did not allow for exemptions around personal information and information relating to culturally and environmentally significant sites. The bill that we tabled this morning is a very robustly drafted bill. I continue with the statement -

> Guaranteeing all processes involving restriction or privatisation of public lands and public goods are genuinely transparent and mandate authentic public consultation is a bare minimum expectation of public representatives. The secrets must stop. Truth is transparent.
>
> Yours sincerely, Fishers and Walkers Tasmania, the Tasmanian Wilderness Guides Association, the Florentine Protection Society, the North East Bioregional Network, the Grassroots Action Network, BirdLife Tasmania, Bird Lovers of Black Sugarloaf, Freycinet Action Network, Tasmanian National Parks Association, Restore Pedder, Neighbours of Fish Farming, the Wilderness Society, Residents Opposed to the Cable Car, the Tree Projects, Blue Derby Wild, Forestry Watch, Friends of the Earth Australia, Farming Matters Alliance.

Mr Speaker, I formally move that I am given permission to table this document.

Leave granted.

In the few minutes I have left, if you want an excellent example of why we need to support amendments to the Right to Information Act, look no further than the situation where, in 2015, then member for Franklin, Nick McKim, sought through Right to Information information in the public interest about proposed sites for the Government's expressions of interest process. The Department of Parks, Primary Industries, Water and Environment - the Parks and Wildlife Service - rejected that request for information, citing commercial-in-confidence.

Senator McKim, who was Mr McKim MP at the time, appealed to the Ombudsman - and that Ombudsman's review, which came back five years later, made it really clear that Mr McKim should have been provided with the information at the time by the department, and that there is no argument for citing commercial-in-confidence over private developments on public lands. We would hope that the Government would heed the Ombudsman's finding in that case, and move to ensure that members of the public are not denied information that they have a right to have, or are left waiting for years for a review from the Ombudsman's office in order to find out what is happening in their own public protected areas.

It is not much to ask, Mr Speaker, for there to be transparency around private developments in lands that belong, first of all, to the palawa pakana and, secondly, to all the people of Tasmania, and, thirdly, to future generations globally.

What we have here is one of the most remarkable wilderness areas in the world, on the planet. We have a responsibility to look after it, and an increasing number of groups and members of civil society have had enough. They are sick of being treated like mushrooms. They are sick of seeing secrecy over their own public protected areas.

They are sick of, for example, hearing situations like the Parks and Wildlife Service doing a flight survey that it provided to the developer of the Halls Island proposal, Mr Hackett, who was then able to release that Parks survey to the media - when in fact it was dishonest about the impact on wilderness of Mr Hackett's proposed development.

Time expired.

Families Tasmania - Launch

[5.55 p.m.]

Ms HADDAD (Clark) - Mr Speaker, earlier today I attended the launch of a newly named, but not new, organisation, Families Tasmania. It is a relaunch of an existing organisation that everyone here and most Tasmanians would be familiar with: CHAT, or the Child Health Association. Thank you to the organisation for inviting me to the launch of their renamed organisation, and to CEO Liz Crane and vice president Kate Crawford, who hosted today's event, which was officially launched by minister, Sarah Courtney.

People would know the Child Health Association well. They provide a wealth of services and support to Tasmanian families. They might not know, though, that the organisation began in 1917 as the Child Welfare Association, which provided support to families, including child health nurses, who were known as mothercraft nurses - an old-fashioned term now.

In the 1950s, that part of their service was handed across to state government, which still employs those child health nurses today. They renamed the organisation the Child Health Association, and it has operated under that name since the 1950s. Over that time, it has grown into a very needed organisation that provides a range of different services, resources, connections and opportunities for families to engage with each other, as well as build skills and access tools to support healthy, happy lives. They offer things like parenting programs, they run community events, they have online support networks and pages, and they offer many different workshops and training. Some of the really well-known ones include the Family Food Patch program, which improves the health and wellbeing of children and families through learning about eating well and being active, and builds skill in families and young people to learn about healthy eating and nutrition across the state.

The Haven is very well known in Hobart. It is a safe place in the middle of Hobart CBD. It is a fun family space where people can go with their young children and babies to sit and relax or play with their kids. They can also engage in programs, information sessions and access support there.

There is also Well Fed Tasmania, which is a mobile community kitchen and very groovy food van that has already been to 93 events, and is a collaboration between now Families Tasmania and the Tasmanian School Canteen Association. They provide catering around the state at events, but they also provide information and support, training and workshops through that collaboration between Families Tasmania and the Tasmanian School Canteen Association.

That is just a tiny snapshot of the different kind of services and supports that Families Tasmania, previously known as CHAT, offer. They also offer parenting programs, information and support - things like family working groups and first aid training, lots of community events and practical advice and support. Since 1917, through now three name changes, and an evolution into all sorts of different programs and service delivery, their core objectives remain the same, including supporting Tasmanian families to build healthy lives.

Southern Tasmanian Dancing Eisteddfod

[5.58 p.m.]

Ms JOHNSTON (Clark) - Mr Speaker, I rise tonight to acknowledge that the 42nd Southern Tasmanian Dancing Eisteddfod has commenced today. There will be children, young adults and families converging from all around Tasmania on Wrest Point today and over the next nine days for this exciting event. I acknowledge the contribution of the volunteer committee who run this event - in particular the president, Piper Robertson, who has been organising this event now for some time. Unfortunately, due to COVID-19, this event had to be cancelled last year, but literally thousands of young Tasmanians will be participating, to show off their dancing skills that they have been saving up for the last two years. Over 20 dancing schools will be participating in this particular event. It does attract a very large audience. In fact, in previous years, over 16 000 people attended one particular event. The youngest performer is four years old, and probably very nervous to be appearing on that particular stage.

I want to record a thanks in particular to the volunteer committee who make this major event happen every July school holidays, where possible, and the work they do in doing that. I also acknowledge all the families and young people who will be participating and showing off the incredible talent that we have here in Tasmania. As a dancing mum myself, I know that there will be plenty of people there who will be covered in head to toe in glitter and sequins and thoroughly enjoying the event. I am sure that we will all be very proud to see what these fine young Tasmanians can achieve.

I thank the volunteer committee for all the hard work they do to deliver this event, and in particular this year as a COVID-19-safe event.

Tony Foster - Tribute

[6 p.m.]

Ms BUTLER (Lyons) - Mr Speaker, I rise on the adjournment this evening to place on the record my warm congratulations and respect for Brighton municipality's long-time mayor and councillor, Tony Foster, who has retired from the council after 34 years' service to the Brighton municipality with 28 years continuous service as mayor.

I acknowledge Tony's family, the fabulous Noeline Foster and sons, James and Stephen.

I will read into *Hansard* the article in the 28 June 2021 *Brighton Community News* that captures the achievements of Mr Foster very well. It should be recorded on the public record.

> … under Mayor Foster's leadership, Brighton municipality, has experienced exponential growth, improved and expanded services to rate payers and the community, key innovations introduced and the council managed in a highly efficient and cost-effective manner.
>
> At the same time, Councillor Foster has made an outstanding contribution to local government affairs and has been a strong advocate for the sector to the state and commonwealth governments.
>
> Councillor Foster's achievements include:
>
> Bridgewater bridge: lobbied hard for a new Bridgewater bridge replacing the ageing infrastructure of the current bridge. The bridge is a critical interconnector transport and freight link between northern and southern Tasmania. The Australian and Tasmanian governments have committed $576 million for a new Bridgewater bridge, the largest ever investment in a single transport infrastructure project in Tasmania's history.
>
> Brighton High School: successfully lobbied for enhanced educational opportunities to assist the community's growth and development, gaining a commitment from the state Government to build a new high school at Brighton and commit funds for a major upgrade to the Brighton school Farm. As a result of this achievement students at the Brighton Primary School, now one of the largest primary schools in the state, will have a pathway through to grade 12 without having to leave the area. Importantly, the new high school will act as a regional educational hub for students from neighbouring municipalities.
>
> Brighton Bypass: successfully lobbied the commonwealth and Tasmanian governments to complete the $164 million Midland Highway bypass, which was opened in 2012 following more than 20 years of planning.
>
> The municipality has a new and welcoming streetscape for small business operators, locals and visitors to Brighton and this was successfully lobbied by Councillor Foster and the result is a revitalised township with further substantial growth in the coming years.
>
> Brighton's Fair Rating Regime: a prime mover in ensuring Brighton Council maintained strong financial control based on responsible budget policy and its fair rating regime. This allowed council to provide the full range of local government services and amenities always cognisant of the community's capacity to pay. Brighton's rate increases remained in line with CPI for 24 consecutive years.

Brighton Transport Hub: oversaw the establishment of the Brighton transport hub, which plays a vital role in the economy of Tasmania. The transport hub, completed in 2014, continues to expand and provide local job opportunities as well as economic benefits for the community.

The Brighton Medical Centre: secured a matching federal grant to enable the building of a new medical centre at Brighton and encouraged locum doctors and a dental service to meet the community's needs following closure of the previous medical clinic in Brighton.

Brighton Industrial and Housing Corporation (BIHC): following council establishing the Brighton Industrial and Housing Corporation as a wholly-owned propriety limited company to manage and sell surplus land for low-cost and affordable housing, Councillor Foster was installed as chairman.

The BIHC built and sold 33 new homes on previously under used land in Bridgewater and Herdsmans Cove. Profits were invested in the municipality on a commercial basis providing a lasting return for ratepayers.

CouncilWise Microwise Australia: a leader in local government software technology, in 2017 Brighton Council established a new wholly owned company CouncilWise Pty Ltd to market a full suite of local government software products. This supported council's successful Microwise business, then chaired by Councillor Foster. The software products, developed by Brighton Council and its strategic partners are being used by local government authorities throughout Australia and the South Pacific.

Microsoft partnered CouncilWise enabling the new company to sell Microsoft products. As well, council secured a generous grant from Microsoft enabling it to move all council software into its Azure cloud. Brighton Council also went serverless … providing significant savings through lower cost onsite computers as the work is done in the Cloud.

TasWater: Councillor Foster was a strong advocate of merging the four businesses to create TasWater. He served as the inaugural chief owners' representative of the establishment of TasWater and continues to assist the organisation on its board selection committee.

Councillor Foster also fought to protect TasWater from takeover so that local government would retain ownership of this important asset for ratepayers.

Brighton Cricket Club: pressed Cricket Tasmania to grant entry for a Brighton cricket team in its premier league competition. He believed this to be a valuable sporting outlet for young males and females in the municipality and would provide a pathway for talented players to seek higher honours. The negotiations with the state's cricket body continued for six years.

Council also worked with the Brighton Eagles Cricket Club on a formal submission and with mayor Foster's endorsement, the club was granted admission to the League.

Today's municipality is significantly different from a decade ago. It is a municipality that sees its community as its greatest value and with a council that views its primary responsibility to create an enviable lifestyle and expanding opportunities for its people.

Under mayor Tony Foster's leadership, Brighton is undoubtedly achieving much. With the strategies and policies he has helped develop and put into place, the municipality will continue to grow and further enhance opportunities for ratepayers and residents.

Thank you for your long and dedicated service, Tony Foster.

Allegations against Member for Franklin, Mr David O'Byrne

[6.07 p.m.]

Dr WOODRUFF (Franklin) - Mr Speaker, I rise to express my disappointment that the member for Clark, Ms Haddad, did not feel fit to make a statement or an explanation to the House about the situation that has come to light, which is the alleged sexual harassment, inappropriate harassment and engagement by the member for Franklin, Mr O'Byrne, and a former employee of his at the time.

It seems from reports on the ABC that Ms Haddad was one of three people who became aware of the concerns of the complainant between 2007 and 2010. The people named in the ABC article yesterday were Ms Haddad and the independent member for Clark, Ms Kristie Johnston. Both of those people are said to have been close to the complainant, the woman who has made allegations about Mr O'Byrne. It is concerning that Ms Johnston made a statement to the House about this very serious matter and Ms Haddad has failed to do that. It is in many people's minds important to hear from her what she knew about this matter, when she was approached, what steps she took to support the complainant, and what actions she took about the allegations that have been made. The woman who made the complaint left her position where Mr O'Byrne was her boss and moved to a new job at the Health and Community Services Union.

We can talk and talk and talk about consent and women's rights and the right to not be sexually harassed in a workplace, but this is really where the rubber hits the road for Labor. Labor is the party of unions and workplace support, and here we have a situation, a perfect storm really, where the Leader of the Opposition has been accused of allegations of sexual harassment by him against a junior female employee in a union workplace. It is important that we have more than talk on this matter. We have to show leadership. It is incumbent on everybody in this place to show leadership. There are clear questions about the capacity of Mr O'Byrne to be in a leadership role, in fact it seems untenable. There are also real questions about other people in the Labor Party and the actions they did or did not take and what they are prepared to do now, what strength they are prepared to show in their own character and the leadership they ought to be showing on behalf of other women. We have a workplace practices and procedures committee which met for the first time today. Which members of Labor are going to be on that committee and what are they going to say about workplace conditions? What are they saying about the alleged complaint that has been made? What is Ms Haddad

going to say about that to the women and the girls of Clark? What leadership will she show on this matter?

It is very important that she makes a statement to parliament. It is a critical matter of an obvious power imbalance between a boss and an employee. Women obviously do what they can to try to alleviate the sort of very inappropriate text messages that were alleged and the attempted kisses. This is the sort of stuff women too often remain exposed to in workplaces and to try to stop it escalating they may not want to be called a prude or seen to be uptight in a workplace where they are trying to fit in; they are a junior person against a senior employee.

We did not hear from Mr O'Byrne any understanding of consent. He clearly does not understand that it is impossible to have consent in a workplace situation like this because women will necessarily and legitimately take actions to try to keep their job security, keep their place in the workplace secure, and they do not want the obvious consequences that could happen by having to stand up to inappropriate and harassing acts from bosses. That is exactly what happened to the complainant. She said it changed from a situation where she was having positive and warm experiences to, as she said that Mr O'Byrne's behaviour changed.

He was rude or short with me, treated me differently to the others in a negative and sometimes nasty way, rather than the favourable tone that had been used ...

These are the sorts of subtle things you cannot possibly see unless you are the person experiencing it. You know you are an outcast and there is nothing you can do. You are utterly powerless and you cannot complain to anybody about your boss's tone because they will not believe you.

This is why we need Ms Haddad come in here and make a strong statement of support for that person and to condemn harassment in the workplace.

Public Trustee - Review

6.15 p.m.

Ms ARCHER (Clark - Minister for Justice) - Do not fear, I am going to be quick; I know it has been a long week. I just wanted to rise to correct something. In the last debate on advance care directives in relation to the amendment to the Guardianship and Administration Act 1995, I stated that the review into the Public Trustee would be finished on 1 November. I have since checked that date - because I was going off the top of my head - and it is actually 30 November.

I wanted to come in as quickly as possible after I had had a chance to check that date. It was in relation to a question Ms O'Connor had asked me regarding the time lines around the second tranche. I wanted to ensure that I corrected the record as quickly as possible.

The House adjourned at 6.16 p.m.