PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 9 November 2022

REVISED EDITION

Contents

Wednesday 9 November 2022

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

SUSPENSION OF SITTING

[11.02 a.m.]

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

> That the sitting be suspended until the ringing of the Division bells.

This is for the continuation of our briefings.

Sitting suspended from 11.02 a.m. until 12.09 p.m.

CLIMATE CHANGE (STATE ACTION) AMENDMENT BILL 2021 (No. 63)

In Committee

Continued from 8 November 2022 (page 69).

Clause 6 -
Proposed new section 5F

[12.10 p.m.]

Madam CHAIR - While the Leader is getting settled, I will remind members where we are up to. The Council recommitted with the bill on Clause 6 to consider the new section 5F that was inserted during the previous debate. In terms of the calls, one member has exhausted all calls on this clause. However, with fair consideration of the matters raised, I will allow the member for Mersey to have a call on this to enable him to put on record his views on the question that the new 5F be disagreed to. Other members who have had a call include the members for Launceston, McIntyre, Hobart and Nelson. That call will still stand so they will have two calls left.

Ms WEBB - Can I ask for clarification on that, Madam Chair? As the Leader had to withdraw, are we not starting again?

Madam CHAIR - We are starting on the same clause and the same question. The advice I have given you is to consider this question, it is the same question.

[12.11 p.m.]

Mrs HISCUTT - Madam Chair, I move -

> That the amendment proposed to clause 6 by inserting new section 5F be disagreed to.

I do not think there is anything more that I can add from what we did last night at this point in the debate. I reiterate the Government has sought advice from legal sources, other departments and other avenues that we have, as all governments do. The strong information we have received is that 5F is very problematic for the Government.

No, the Government will not be supporting 5F.

Mr VALENTINE - I thank the Leader for having the information circulated. It really did provide an opportunity and I want to place that on the record. It is very much appreciated. In making a policy decision, a Tasmanian policy decision-maker must take into account the effect on climate change that the policy decision is likely to have.

We can read all sorts of things into that. It is quite clear the Government is concerned about quite a number of aspects of it. I think it has been taken a little too deeply. I imagine there would be many statements in legislation that are vague, as the Government says, but are just as vague as this might be.

I do not think what the Government has presented to me convinces me that this is something that is going to be detrimental. It provides a real focus. Of course, the Government will need to make sure its officers that are entering into this space are properly aware and are trained and all of those sorts of things. I do not think this amendment does not envision that. Quite clearly, if this is something that is going into legislation, the Government does have to prepare its officers for addressing things that legislative change brings on and brings about. I do not see it as quite as critically as the Government is pointing out here.

I will listen to other members but I am still supportive of the amendment.

Mrs HISCUTT - I point out, Madam Chair, this is law we are making here. It should be clear.

Mr VALENTINE - Sorry?

Mrs HISCUTT - I point out that this is law that we are making here and it should be crystal clear.

[12.14 p.m.]

Ms WEBB - I rise to put a few comments on the record about it.

It concerns me that we will withdraw this clause from the bill. Given what we have all acknowledged as the urgency of this issue, we have had it put to us many times that it is urgent to get this bill through because of the urgency of the issue we need to be moving on.

We also know that this has been under development for a long time. The Jacobs review in 2016 of this act actually recommended a clause of this sort to be put in it. Jacobs reiterated that view in 2021. So, we have an expert recommendation that something like this be considered. It may well be that there is a different way that it could be put into the legislation, but the implication was that legislative imperative is required.

Although I am incredibly pleased that the Government is developing a policy framework that will give effect to the intent of this clause - we all recognise that is a positive thing, and

quite naturally that policy framework is what we would look to, and point to, to give effect to the legislative imperative across the board. It is going to provide the tools and the framework and the guidance, the training, all those things that are required to give effect to that clause that requires a consideration of climate change. That policy framework is very pleasing.

We also know that without an imperative behind it, it is not necessarily the case that we can guarantee that it is going to be done in a timely manner. We cannot necessarily guarantee that is going to be done in a consistent, comprehensive manner, and we cannot necessarily guarantee that is going to be accountable for its implementation to us here in parliament, or to the general public.

Those are my concerns about - laudable though it is, and important and necessary though it is to have the policy framework to give effect to this, I am concerned that without a legislative imperative we lose the driver, the accountability and the urgency that should sit behind that. Time has already elapsed and we do not have it in place.

If all we required was a policy framework, why is it not already in place, given that it was recommended back in 2016 by Jacobs in the review of the act that climate change be considered in all policy decision-making? Given that that was recommended, and here we are six years later, if all that was required to give effect to that was a policy framework, where is it, and why isn't it there? Why are we not seeing it now and being able to hold the Government to account for it now?

I am concerned that that kind of delay, that dragging of their feet, that lack of urgency stays with us if a policy framework is the only mechanism and we do not have the legislative imperative. That is a huge concern of mine.

I want some clarity from the Government in light of that, a firm commitment to when that policy framework is going to be completed and implemented and how we will be able to hold the Government to account for its implementation and monitor its ongoing progress, success or otherwise, as we go forward.

I am also interested to hear from the Government, given that in relation to this bill, we have already had a commitment from the Government on one matter, the climate advisory council, to consider that outside of this bill - we are not considering it in this bill - and the Government is committed to taking 18 months to look at other jurisdictions to develop a model and to come back to legislate for a council in this place within 18 months.

I wonder too, whether we could have a commitment from the Government to give consideration to a legislative clause that could go in. If we are coming back to this bill in 18 months to put a council in it anyway, we will have 18 months under our belt then for this policy framework to be developed and implemented, and for us to understand how a workable legislative recognition imperative might look in this legislation - knowing that it was recommended by experts, and that it provides that extra level of imperative and accountability. It would be highly appropriate for us to have a commitment from Government that, while they are considering and developing the model for an advisory council, they would have had the time to consider a workable way for us to legislatively acknowledge that climate change needs to be considered across policy decision-making.

We know it is there in some other jurisdictions. When we discussed this amendment in the first instance, we talked about Victoria having a particular part in their legislation. It should be possible for us to put it in there. It is an important public statement from the Government - from any government of the day - to have legislative recognition that climate change is of such comprehensive relevance across our decision-making and our policies and it is of such urgency that we need to recognise the need for it to be considered from a legislative level downwards.

I invite the Government to commit to that. I would also like answers to my other questions; but I want a commitment. It would be a good faith commitment from the Government to say that they will come back with a proposal, at the same time they come back on those other matters, to look at how to legislate this in an effective way if the argument is that while they agree with the intent, the version we have here is so problematic that they want it withdrawn. There will be another way it can be done and put into the legislation, and I invite the Government to commit to doing that.

Mrs HISCUTT - I will seek some advice.

The policy framework will be developed in 12-18 months and the minister has already made that commitment. You also asked about how it will be monitored and evaluated. The Climate Change Office will develop an implementation plan to clearly outline time frames and outputs in the policy framework.

Each year, progress will be reported and will outline the status of the outputs and identify future priorities in the climate change activity statement. The Climate Change Office will keep stakeholders and the community informed on the implementation of the framework through various communication channels. The climate activity statement will be tabled in parliament. This provides opportunities to scrutinise the actions and the framework.

In response to the call for a commitment to come back with a legislative approach, the overarching purpose of the policy framework is to build capability and embed climate change considerations into decision-making across the General Government sector. Once the framework is embedded within the public service and there is consistent understanding, there will be an opportunity to review the effectiveness of this approach.

The Government can commit to fully considering this issue in the next independent review of the act, which will occur in 2024.

Mr GAFFNEY - Madam Chair, I appreciate the opportunity to speak because I know I used three of my speaks last night. I thank the Leader for allowing that debate to hold. I would have preferred it if you had done so after the first or second requests instead of the third one, because I am probably eating humble pie here, but that is beside the point.

It was important we did that, because we did not have the reason for the Government's position. I understand and accept the Government's position, so I am not questioning that so much; but it did give us a chance to reach out to other groups listening who are invested in this whole debate and discussion. At 9:25 a.m. today, we all received a communication from people who have been involved with this discussion. However, from 9.00 a.m. today, we have been involved in briefings to do with other bills and other legislation, so we have not had a chance to take that information and synthesise it to come back in a succinct form.

I am hoping to have a little leeway so I can go through some of this information to get it on the record, because I have no other avenue to do that. It is not that long, but I consider it goes to the heart of why this group believes that we should not support the Government's position of withdrawing this amendment. It is not that long - it is probably a minute and a half to two minutes:

> Last night, we were informed of the proposal by the Government to reverse the amendment passed on 26 October which requires that the Tasmanian policy decision-maker is to take into account the effect on climate change that the policy decision is likely to have.
>
> We note that the amendment has already been altered to change 'must' to 'is to', which OPC advises is less prescriptive. Climate change is an existential issue affecting all aspects of society. This week, the Secretary-General of the United Nations has warned that; 'We can sign a climate solidarity pact or a collective suicide pact'. Whatever the practical concerns that the Government has about the implications of this amendment, reversing it would send a very clear message that the parliament does not see climate change as a wide-ranging threat that needs consideration in all of our actions.
>
> We are keen to see all the existing amendments to the Climate Change Act come into effect as soon as possible so that the practical work on reducing emissions can have a firm legislative base. However, it is essential that climate change be considered in all major decisions. A single policy decision could lock in changes that undo all the work proposed to be done in reducing Tasmania's emissions.
>
> As we have flagged on many occasions, Government commitments without a legislative base are vulnerable to changes of government or minister. Reacting to climate change is urgent, but also requires a long-term commitment that survives changes of government. In addition, we want to see a detailed, long-term climate change plan in legislation so all Tasmanians have certainty about where we are headed and what mechanisms are established to deal with this long-term emergency. The amendment, as it stands, provides a formal basis for the work the Government has committed to undertake in developing policy guidelines in this area.

They go on to say in the final couple sentences:

> We are reluctant to see the amendment reversed. If the amendment as currently passed has practical problems, it may be possible to clarify the intent consistent with the Government's stated commitments. The lack of warning from the Government about this proposed reversal of a motion cast almost two weeks ago does not allow time to fully consult with the Climate Tasmania members, so this is a personal appeal.

I do not think any of these members would mind if I read their names into *Hansard*: Margaret Steadman, the secretary of Climate Tasmania; David Hamilton, member of Climate Tasmania; John Church, Tasmanian Independent Science Council member; and Jack Gilding, adviser to Climate Tasmania.

I appreciate the opportunity to read that in. People listening to this debate deserve the right to have that. As I have stated earlier, we have not had a chance to actually put that into our own words. On behalf of those members, I put that on the record. For people here, I know all members will know it, but other people listening will understand their concerns at having this reversed.

[12.36 p.m.]

Ms RATTRAY - I also acknowledge and thank the Government, and particularly the Leader, for allowing the time overnight, that 12-plus hours that was requested. I appreciate the member for Mersey in putting that on the public record as well. That opportunity for that extension allowed that information to come in. It is important that we have all views considered.

Leader, a couple of responses to what has been read out this morning. I do intend to change my vote on this to support the Government. As I said last night, as we were discussing this matter, I had no intention of making this particular part of the bill unworkable and causing the issues that it had.

I can only assume, and I am not sure I will be able to get a definite answer, but some of that legal advice would have to have come from the Solicitor-General. I am not a legal person. I have to be guided at various times by what is presented by the Government. If that is the case, I assume that some of that legal advice has come from the Solicitor-General - if the Leader can provide a 'yes' or a 'no', that would be useful. I am not sure if that is available. We know what the situation is around -

Madam CHAIR - You are not asking for advice, you are asking whether the Solicitor-General gave advice, are you not? That is a pretty simple question.

Ms RATTRAY - Yes, well, that too. If she wants to add a bit more, that would be welcome in that regard. Also, where, in the climate change email that came in from those four undersigned that the member for Mersey read out, it indicated that reversing this decision - my decision, on the way I intend to vote - would send a clear message that the parliament does not see climate change as a wide-ranging threat and needs consideration in all our actions, I do not believe that that is the fact. That is not why I am intending to change my vote. It is not that I do not see climate change as a considerable issue - and certainly the wide-ranging threat that has been suggested. It is because it is being told to us by the Government that supporting this amendment, as I had previously, was going to make it unworkable.

The explanation the Leader read out on behalf of the minister who is sitting in the Chamber - that is a useful thing to do, minister, to come and listen to the debate, so thank you for that. You can hear the reasons why, and the genuine concerns that have been put forward by others as well, but that is certainly not what will happen if this is supported.

A quick response to the lack of warning from the Government about the proposed reversal of the amendment passed almost two weeks ago. I suggest that it is not unreasonable to think that if you are getting some legal advice, it is going to take a couple of weeks. We were told that during the debate, well and truly - rightly - by the Leader, that the Government would be seeking advice. With that advice that has come in, with the commitment that the Leader has provided to the House in regard to the steps on the framework, developing that framework and the time frames, I am prepared to support the Government's request.

Mrs HISCUTT - Madam Chair, I thank the member for her comments. I will start with how the Government has sought legal advice through various channels. One of those channels is the Government's legal adviser who is the Solicitor-General.

Can I also add to our commitment? You can see that the policy framework is going to be put in place in good time, after it has been worked on thoroughly. The Government is committed to climate change. You can see there is commitment because the minister himself is very interested and has brought himself to the Chamber to see how we are going. The Government is committed, that cannot be doubted in any way whatsoever, and the answer to your other question is, yes.

Ms LOVELL - Madam Chair, it was a fair and wise decision by the Leader to allow overnight that time for people to consider the advice provided to us last night, when asking us to change a position on a clause and providing some advice not light in detail. That was appropriate to allow people the time to consider. Thank you to the Leader for that.

I find myself in a similar position to the member for McIntyre. I am leaning towards taking the Government's word on this advice to some degree and changing the position we took on this amendment. I also echo the comments of the member for Nelson. There was a pretty clear sentiment from members in this place that reflected a desire for something along these lines to be included in legislation. Given that the minister is asking us in good faith to accept this advice and change the position, it would perhaps demonstrate that good faith being returned if there was a stronger commitment from the minister on coming back to something along these lines in the future, in terms of the other reviews that are underway.

I know the Leader has made comments about a commitment from the Government to climate change and policy decision-making, generally speaking. However, the pretty clear sentiment from this Chamber is we are looking for more than that. I know, as others have noted, the minister is here listening to the debate. I hope he listens to that sentiment and it would be well accepted if there was a stronger commitment along those lines.

I am still interested to hear the reflections of other members. At this stage, I am relatively comfortable with accepting the Government's advice and changing our position, but I am still listening to the contributions of others.

Ms FORREST - Madam Deputy Chair, I did not speak last time. I was pleased to see the Leader or perhaps the minister saw the sense -

Mrs HISCUTT - Both.

Ms FORREST - of letting the Chamber have a little more time to consider the information that was given. He is not heard in the Chamber, regardless of how much he might try. Not in our Chamber.

Madam CHAIR - Did you have a question, member for Murchison?

Ms FORREST - Yes. I am going to make a few comments around this because as members can tell from *Hansard* and may recall, I supported this amendment on the basis that it is very important we do ensure all decisions made by government, of whatever colour, at whatever time, particularly consider - and should have been considering in the past and must

consider now and into the future - the very real impacts that any policy decision may have on the worsening of climate change.

I supported it because - and I will come to the fact that I raised a number of genuine, legitimate concerns - the Government was unable to convince me, through the evidence they provided to us, that those concerns that I raised were legitimate and that there was an imperative here.

They have since received some further advice on this. It has consolidated the position they put during the previous debate. As the member for Nelson alluded to last night, and other members may have too, this amendment had been around for some time and I would have thought the Government could have this pretty solid advice and perhaps been a bit more convincing in the previous arguments.

The last thing I want to see is legislation that goes through this House, and is subsequently supported by parliament as a whole, that could actually delay action on climate change. My concern, that I raised in my contribution before, is that if there is doubt about who the policymakers are, who the policy decision-makers are; it is an interesting concept to think about.

I revisited that, after listening to the Leader's comments and re-reading them overnight. 'Policy decision-maker' is an interesting term, in that policy is made by Government. The Opposition sometimes has policies as well. However, the decision-maker may not be the person who made the policy. It could be someone under the authority of another body or person, effectively. So, it is a little bit difficult to define who this actually refers to. This is what I raised in my previous comments. Who is responsible? What is the bar? If this is going to tie departments up in legal wrangles over whether something was fully considered, and to what extent it was fully considered, that may be a negative thing. It could be related to action on climate change as well. A climate policy is to take some sort of action on climate change. The question is then raised that this does not go far enough. The question then is, have we fully considered the complete supply chain?

I did talk about this in my previous comments. I probably do not need to go back over that. However, we should all be aware that it is not only the thing right in front of you that is the issue we are trying to address and the climate impacts of that - it is all the things that led to that point. It could be the supply chain; it could be the production; it could be the way people are employed. It could be a whole range of things that add to that. It is fraught.

I did not bring the Jacobs report with me; I thought we finished with this a couple of weeks ago. Can someone tell me, did the Jacobs report recommend a legislative requirement for all policy to have a climate lens over it, or a policy framework that delivered that same outcome?

I ask that, as it is important. We talk about a Health in All Policies approach. We talk about the gender impact statement on our budget, looking at the gendered impact of our financial decision-making. In some respects, I want to see some of those things in legislation. I know Victoria has, for example, put in place a legislative framework around considering gender impacts.

The driving force behind my support of the amendment previously was that I consider there is definitely a place for legislated requirements to consider factors. What is problematic with the amendment that is before us that we are looking at again today, is that 'policy decision-maker' and who that actually is, and how broad it could be, and how do you assess that.

In any event, Tasmania does not have a legislative framework for a gender impact assessment. It is a policy position and it is an agreed-to position to undertake it, as it stands at the moment. It may not stand forever. Hopefully it will and also with the Health in All Policies, we still do not have a legislative framework for that despite a number of recommendations over a number of years from parliamentary committees and others for such a process.

I note the comments of the Leader regarding the policy framework. I want to re-read some of it to comment on it a bit further. This is from what the Leader said last night:

> The Government does not want to impose a legal obligation that directs Tasmanian policy decision-makers [whoever they are] to consider the effect on climate change on their decisions, when they have not been provided with guidance or advice on how to do so or what the implications are.

That is the question that still remains fresh in my mind. This concept has been tested with Tasmanian policymakers and I assume this was the most recent work that the Government did. They went out and actually asked some of the people who make policy about this. This was the information that was lacking last time in my view.

Mr Duigan - While you are looking for your place, I can let you know what the Jacobs report said.

Ms FORREST - By all means.

Mr Duigan - It says:

> Relevant policies and strategies informed by climate change. Amend the Act to include the consideration of climate change in the development of relevant government policies, planning and strategies.

Ms FORREST - So the word 'relevant' is significant there. So, they were asking for legislative change or suggesting legislative change?

Mrs Hiscutt - Yes.

Ms FORREST - Thanks for that. Here to help from the Government, he is. Back to where I was in the Leader's comments:

> This concept has been tested with Tasmanian policymakers and the strong feedback has been that a policy framework focused on building capability is preferred. The policy framework approach acknowledges the fact that not all decision-makers have the same level of understanding or skills regarding how to consider climate change in decision-making and that a base level understanding and capability needs to be built across the public sector. The policy framework will provide meaningful guidance for decision-makers on

what to consider when making decisions to promote consistent decision-making across the Government. It will be co-designed with agencies to ensure it is flexible, fit for purpose, applies to relevant policies, plans and strategies and meets community expectations.

There is a bit of work to do and we heard from the Leader that this work will be undertaken over the next 12 to 18-month period. It is somewhat disappointing that in many respects we do not have that level of understanding of what actions need to be taken across all departments in terms of climate change. In this place we do not have a climate-friendly approach to the kind and amount of travel we do in petrol cars and until we get the electric fleet that is going to continue. At least there is a plan for that.

I am pleased that the concerns raised forced back the Government to look seriously at this issue and to look at how best this can be achieved, that climate impact is considered in all decisions made by government, whether by legislative process - which is unlikely to proceed hearing other members' comments - or through a policy framework. The policy framework is the key and we need to keep an eye on that.

I have listened to other members' comments. I thank you, Madam Deputy Chair, for raising the point made by representatives from Climate Tasmania, and without having the opportunity to talk to their broader membership with the time provided, they did raise a concern this could send a message that we are not serious about climate change. That is not the case.

Mrs Hiscutt - That is not the case.

Ms FORREST - That is not the case. What I want to see is real action on climate change and I do not want to have a provision in the bill that could slow that down or complicate it or that could make it harder to achieve. That was my fear a couple of weeks ago; it remains a concern now and so I am likely to alter my vote on that basis.

Mrs HISCUTT - I have a few more comments to add on the Jacobs report to tidy up that piece. The Government considered the matter in detail in its response to the independent review, the Jacobs report. The independent review itself noted it is not feasible or conducive to effective climate action, to consider climate change in all government decision-making; rather, in the development of policy, strategies or planning that holds relevance or may give effect to climate change mitigation and adaptation.

This is why following a review of other approaches across Australia, and consultation with the Tasmanian government departments, the Government is determined to develop the policy framework approach to build the capacity of the public sector and support them to consistently consider climate change in all relative polices, strategies, and plans.

Madam Chair, I will not go back through where the policy framework is, because I have already stated that.

Ms WEBB - A couple of comments to finish my third call. I appreciate the Leader checking in on the opportunity for a commitment to have this considered when we come back to this legislation in the not too distant future. My understanding is that a commitment has been given for the examination of whether we can - at that point in time - legislate something appropriately that puts the legislative imperative there in a way that is workable and acceptable.

That is what I heard and want that confirmed. That is what the member for Rumney was seeking additional confirmation about in her contribution. Better late than never.

In relation to the recommendation from the Jacobs review - and people picking up on this idea that the word 'relevant' in there is somehow consequential - that is entirely in line with the amendment that we put in here. If, as per the amendment we put in, we need to consider climate change in relation to government policy and thus policy decision-making, the first question we ask in meeting that requirement is, is this a relevant policy and do we need to think about climate change in relation to it? If the answer to that is no, it is not relevant, we have fulfilled the expectation and the requirement of the amendment as it stands. The question of relevance is simply the first question that gives you a yes, and we need to go through the process that the policy framework lays out for us; or, no it is not relevant in this instance, we have fulfilled the requirements.

There is nothing incompatible with the amendment we have there in the bill with the Jacobs review and the use of the word relevant. It is simply the first question that is asked and determines then what happens next; going down the policy framework path, or no, on we go with policy development as usual having considered climate change and whether it was relevant to build in here.

I reiterate this is something that is legislated elsewhere. It has been legislated in Victoria since 2017. They have used a form of words different to ours, and this is why the Government could commit to coming back with a form of words they believe will work in this state. Section 20 of Victoria's Climate Change Act says:

> The Government of Victoria will endeavour to ensure that any decision made by the Government and any policy, program or process developed or implemented by the Government appropriately takes account of climate change if it is relevant by having regard to the policy objectives and the guiding principles.

That is quite an extensive section in that Victorian act. It has been there for quite some time and there are likely to be other examples. That is why I am keen we have a commitment we will find a form of words that are appropriate for a legislative imperative here that fits with a workable model. I still believe that what we have is a workable model and it fits. It simply says that it needs to be considered that way and if the relevance question is answered in the negative - no it is not relevant to this policy - move on.

It is an important message that this is in here. I am not comfortable with taking it out. I accept the Government has received advice, but I also do not believe that leaves us in a position where we can also adequately hold the Government to account on this and that is unfortunate. I am still considering my vote on that but I would also like to have it confirmed what the intention is.

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

QUESTIONS

Cam River Bridge - Feasibility Study

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

With regard to the recently announced feasibility study for a second Cam River bridge:

(1) will the Government commit to a full and open process that includes community consultation with residents of Waratah-Wynyard, Circular Head and Burnie municipalities and the undertaking of a feasibility study;

(2) will the following considerations be included in the development of the feasibility study:

(a) all possible location options for the second bridge;

(b) the need for and nature of a second bridge; and

(c) all alternate route options for the Bass Highway between Burnie and Wynyard to establish a dual carriageway;

(3) what is the time frame for this process, including time frames for community engagement?

ANSWER

Mr President. I thank the member for her question. I have a couple of answers here that I will read, and there is a document I will seek leave to table and incorporate into *Hansard*.

(1) As announced by the Premier and the minister on 5 November 2022, the Department of State Growth will undertake a feasibility study for a second Cam River bridge that includes community consultation with the residents of Waratah-Wynyard, Circular Head and Burnie municipalities.

(2) Yes. As announced on 5 November 2022, the feasibility study will assess the range of options.

(3) The Department of State Growth will engage a consultancy to assist with this feasibility study. Once the consultancy is procured, additional information on the time of study will be provided on the Department of State Growth website. The Department of State Growth will advertise the community consultation period before it begins, and will provide options for how feedback can be provided.

Mr President, I seek leave to table a document and have it incorporated into *Hansard*.

Leave granted.

See Appendix 1 on page 84 for incorporated document.

King Island - Freight Volumes

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

[2.32 p.m.]

With regard to the shipping service to and from King Island via SeaRoad and Bass Island Line over the last five years, reported by year:

(1) How many 20-foot equivalent units (TEUs) have been transported from the Tasmanian mainland to King Island, where products have been sourced in Tasmania;

(2) how many 20-foot equivalent units (TEUs) have been transported from the Tasmanian mainland to King Island, where products have been sourced in Victoria:

(a) prior to the commencement of the new service, where the *John Duigan* only sails between King Island and Devonport; and

(b) since the commencement of the new service, where the *John Duigan* only sails between King Island and Devonport?

(3) Please provide the total freight volumes transported from Victoria to King Island via Devonport by month for the last 12 months.

(4) Please provide total freight volumes transported from Devonport to King Island by month for the last 12 months.

ANSWER

Mr President, I thank the member for her question. As with the last answer, I have a few answers to provide, and a document that I will ask to be tabled.

(1) BIL, the shipper, does not have this information. There is no requirement for the sourcing of origin of product transported from customers.

(2) As above, BIL, the shipper, does not have this information as there is no requirement for the sourcing of origin of product transported from customers.

(3) Entails a table.

(4) Entails a table.

Mr President, I seek leave to have the answer tabled and incorporated into *Hansard*.

Leave granted.

See Appendix 2 on page 86 for incorporated document.

RECOGNITION OF VISITORS

Mr PRESIDENT - Honourable members, I welcome to the Chamber today Year 6 from Scotch Oakburn College in Launceston. What we are currently doing is question time, where members of the Legislative Council have the opportunity to ask questions of the Government through the Leader. That is something we do every day at 2.30 p.m. I am sure members will join me in welcoming you here today.

Members - Hear, hear.

King Island - Community Support Levy

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

[2.35 p.m.]

Supplementary to that question, when I frame my questions - I am sure other members do too - we try to be clear about the questions, to remove the ambiguity. Maybe I need to write an essay next time, because surely, when a container comes from Victoria to Devonport, is off-loaded and reloaded, we know it has come from Victoria.

To tell me that TasPorts do not get that information is beyond me, or BIL, who are TasPorts. I will rewrite an essay to try to make it clear as to what the question was.

My question is to the Leader. With regard to the Community Support Levy, over the last two years:

(1) how much revenue has been raised through the Community Support Levy; and

(a) of the 25 per cent for the benefit of sport and recreation clubs, please provide a breakdown of all funds dispersed;

(b) of the 25 per cent for the benefit of charitable organisations, please provide a breakdown of all funds dispersed;

(c) of the 50 per cent for the provision of gambling support services, please provide a breakdown of all funds dispersed for:

(i) research into gambling;

(ii) services for the prevention of compulsive gambling;

(iii) treatment or rehabilitation of compulsive gamblers;

(iv) community education concerning gambling; and

(v) other health services.

ANSWER

I will read the answers, but there are some lengthy website addresses to read in. I might seek leave to table those and have them incorporated into *Hansard*.

(1) The most recently published information on the Community Support Levy receipts and disbursement to agencies is provided in the Tasmanian Liquor and Gaming Commission Annual Reports 2020-21 and 2019-20. These reports are tabled annually in parliament and are available from the Treasury website. Here is the website: www.treasury.tas.gov.au/liquor-and-gaming/about-us/tasmanian-liquor-and-gaming-commission

The commission's 2021-22 Annual Report, which will detail 2021-22 CSL receipts and disbursements is currently being finalised and is expected to be tabled in parliament in November. Allocations under specific grant programs are reported separately by the Gambling Support Program and Sport and Recreation on their respective websites. Links to this information are available at these places here, Mr President.

I seek leave to table this answer and have it incorporated into *Hansard.*

Leave granted.

See Appendix 3 on page 88 for incorporated information.

Marinus Link - Impact on Agricultural Land

Ms RATTRAY question to MINISTER for PRIMARY INDUSTRIES and WATER, Ms PALMER

[2.38 p.m.]

Minister, I am interested to know what discussions you or your advisers have had with the TFGA and farmers who are affected by the Marinus Link and the installation of some of those very large pieces of infrastructure on prime agriculture land, and any impact that will have into the future on those farming entities.

ANSWER

Mr President, I thank the member very much for the question. TasNetworks north-west transmission developments are of strategic importance to Tasmania's renewable energy future and underpin significant economic opportunities for the state, as well as helping to transform Tasmania into the smartest, cleanest and most innovative state.

These developments will unlock our low-cost dispatchable hydro capacity, pumped hydro storage and high-quality wind resources. They are essential to enable Marinus Link, the Battery of the Nation and our emerging green hydrogen sector.

Understandably, there are some concerns in the community about these developments. They are large scale infrastructure projects with complex and long delivery processes.

All projects in Tasmania are subject to rigorous environmental and planning approvals, with the opportunity for public submissions on issues that affect landowners and communities. TasNetworks is currently progressing the design and the approvals for the north-west transmission developments and I can assure you that we work very closely with the TFGA to ensure that we are representing our farmers in the best possible way forward through this stage.

COVID-19 - Ongoing Management

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

[2.40 p.m.]

I ask the Leader the following questions:

(1) Can the Leader confirm mandatory reporting to Public Health of positive rapid antigen test (RATs), and PCR tests remains in place;

(2) detail how and when that ongoing mandatory reporting of positive COVID-19 tests requirement has been communicated to the public and medical professionals in the lead-up to and since the announced 14 October lifting of mandatory isolation requirements; and

(3) detail how the Government intends to:

> … closely monitor the COVID-19 situation moving forward and continue to take public health advice as we manage COVID-19 …

as undertaken by the Premier in his media release dated 30 September this year.

ANSWER

I thank the member for her question.

(1) COVID-19 remains a notifiable disease under the Public Health Act 1997 Tasmania. Public Health continues to provide recommendations about the management of COVID-19 to guide risk management for individuals, workplaces and the community with a focus on protecting people at greatest risk of severe outcomes from COVID-19.

The requirement for laboratories to notify Public Health of the results of the PCR tests remains and was not affected by changes to isolation requirements. The management of COVID-19 is now increasingly being managed in a sustainable and proportionate manner consistent with public health principles and our approach to other notifiable respiratory infections.

(2) Public Health encourages Tasmanians to continue to report positive RAT results. Impending changes to COVID-19 management requirements were communicated nationally following the decision of National Cabinet on 30 September 2022. In Tasmania, a media release was issued outlining changes to isolation requirements

and Public Health consulted with key stakeholders, including representatives from higher risk settings such as health, aged care, disability care and the education sectors.

Public Health subsequently provided advice to the public with recommendations for COVID-19 management at the coronavirus.tas.gov.au website and via radio, print and social media. Medical practitioners were provided with specific updates through primary care.

(3) Surveillance of COVID-19 involves numerous measures of disease activity, control and preventative activities. Some of these include: positive PCR results; the proportion of PCR tests that are positive; PCR testing numbers and rates; positive RAT results; estimates of RAT testing; demographic characteristics of case outcome data including hospitalisation, ICU admissions and deaths; outbreaks and outbreak case numbers and characteristics in various settings; vaccination rates; use of antiviral therapies, particularly in aged care; genetic typing of viral strains and surveillance of influenza-like illnesses. Public Health has substantial and longstanding expertise in communicable disease surveillance.

They have worked closely with jurisdictional and national colleagues to establish, maintain, and improve COVID-19 surveillance locally and nationally. The risk from COVID-19 in Tasmania continues to be closely monitored and advice is provided and updated in accordance with the current epidemiology circumstances.

King Island - Ambulance Services

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

[2.44 p.m.]

With regard to ambulance services on King Island and the lack of dedicated ambulance facilities to the point where volunteers are required to use a portaloo at the rear of the police station where they have been based and do not have access to a facility to undertake training and/or debriefing after a critical incident - and bear in mind, they often know the people they have responded to:

(1) does the Premier consider it appropriate that our dedicated volunteer ambulance officers utilise such inadequate facilities, including a portaloo rather than a proper toilet and bathroom; and if so

(a) how are the volunteer ambulance officers expected to maintain adequate levels of infection control in these circumstances;

(2) will the Premier consider a dedicated ambulance facility to house the two ambulances, provide reasonable facilities, such as a toilet and kitchen facilities and a room for training and debriefing, which is essential in a small population for volunteer first responders;

(a) if so, when will then this dedicated facility be progressed, and if not why not?

ANSWER

(1) Emergency ambulance services on King Island are currently provided by a group of dedicated and valued volunteer ambulance officers. Until recently the volunteers have occupied a room in a Tasmania Police Station at Currie, but recent changes have required return of the space. The volunteers do have access to all facilities at the King Island Hospital and Health Centre. The facilities include access to a training room, and appropriate bathrooms and toilets.

The King Island Hospital is approximately a two-minute drive from the police station. The ambulance vehicles are still housed in the Tasmania Police station garage, and without access to the police station amenities, I am advised a commercial portaloo has been temporarily located on the site for volunteers, in case it is required.

Due to the nature of emergency ambulance service work, appropriate provisions are made within the ambulance vehicle to ensure infection control requirements as they are mobile.

The King Island Hospital and Health Centre provides sufficient handwashing facilities to support appropriate hand hygiene to meet infection control standards.

(2) Ambulance Tasmania has been searching for an appropriate facility to house Ambulance Tasmania in Currie, but there are no available properties or residences. As such, Ambulance Tasmania is working with the Tasmanian Health Service facility at Currie, to appropriately meet training and housing requirements as a priority. Ambulance Tasmania is also conducting a review of service demand across the state, the outcomes of which will help inform future infrastructure requirements.

TT-Line - Carriage of Livestock

Ms LOVELL question to MINISTER for PRIMARY INDUSTRIES and WATER, Ms PALMER

[2.47 p.m.]

Minister, significant disruption was caused by the sudden announcement by TT-Line to cease the carriage of livestock following a court ruling.

Can you confirm whether the Government intends to amend the Animal Welfare Act to remove any legal uncertainty about the ability for TT-Line to carry livestock?

ANSWER

Mr President, I will seek some advice.

I thank the member for her question.

This has caused significant disruption to a number of Tasmanians and we have been very aware of that. It took quite a considerable effort across four different ministerial offices to put in place interim measures, which we do have at the moment and we are working through long-term solutions. At the moment, nothing is on or off the table.

West Coast District Hospital - Funding for Works

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

[2.48 p.m.]

In follow-up to a question I asked in May this year, regarding capital works projects at the West Coast District Hospital, related to stage 2 of the Lyell Wing, the aged care facility, and an Australian Government funding commitment of $1 million in 2019 for the additional aged care bed, the Leader informed me she had been advised the likely cost, based on a concept design prepared in early 2021, was in excess of $3 million. This work is currently unfunded.

The Leader stated the Premier was committed to working with the council to assist in lobbying the federal government for additional funding. The Leader noted the funding commitment by the Coalition in the recent federal election campaign, and noted we - the Government - will be contacting the incoming federal Health minister to support these additional investments.

Can the Leader provide an update on the progress of these discussions and consultations and likely time frame for the commencement of the works?

ANSWER

Detailed design for stage 1 of the West Coast District Hospital redevelopment has been completed. Works are expected to commence in January 2023, with an anticipated completion date of September 2023.

In relation to additional funding for stage 2 of the project, the Government has written to the federal minister seeking his consideration to match the commitment made by the Coalition at the federal election.

At this stage, the Minister for Health is advising that no response has been received as yet.

Land Tax Revenue

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

[2.50 p.m.]

What is Treasury's latest estimate of land tax revenue for the 2022-23 financial year? Does this estimate reflect any change from revenue forecast in the budget and, if so, by what amount and what is the reason for the change?

ANSWER

Mr President, I thank the member for her question.

The Treasury land tax estimate for 2022-23 remains at $161.2 million. This figure is consistent with the estimate published in the 2022-23 Budget. The Revised Estimates Report to be released no later than 15 February 2023 will include any revisions of the 2022-23 land tax estimate.

Emergency Management Act 2006 - Review

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

[2.51 p.m.]

In relation to the targeted review of the Emergency Management Act 2006 for which the deadline for public submissions was 2 April 2022, can the Government:

(1) detail the number of submissions received;

(2) provide an update of when those submissions will be published, noting the Police, Fire and Emergency Management website states 'submissions will be published within a reasonable time of receipt';

(3) inform whether the review report has been submitted to the Government given the review's terms of reference released on 25 February 2022 state 'a final report on the review will be delivered to Government in mid-2022';

(4) undertake to immediately release to the public that review final report, should it already be in receipt of the report; or

(5) detail when the final report is expected to be received by Government, and undertake to release it publicly as soon as possible following receipt of the report?

ANSWER

Mr President, I thank the member for her question.

(1) Two public submissions were received for the target review of the Emergency Management Act 2006.

(2) The Government is awaiting advice from the Department of Police, Fire and Emergency Management regarding the review.

(3) The Tasmanian Government is awaiting advice from the Department of Police, Fire and Emergency Management regarding the review.

(4) A final report has not yet been provided to the Government.

(5) Work is progressing to finalise advice to Government.

Gaming Machines Pre-Commitment Card

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

[2.52 p.m.]

With regard to the welcome introduction in 2024 of the pokies pre-commitment card:

(1) if a person wins an amount of money on a gaming machine, are the winnings to be credited to the card; and, if so, can the person then continue to play the gaming machines beyond the daily limit, that is, also spend the winnings; and

(2) will it be possible for a person to play the same card at another venue and claim winnings not won at that venue, from the second venue; and if so, how is it to be managed where the venues have different owners?

ANSWER

Mr President, I thank the member for her question.

(1) The Government has clearly stated that the intent is to limit player loss, that being the total amount gambled less the amount won by the player. While winnings will be credited to the card, the limit will refer to the amount that the player loses, net of any winnings. This is consistent with the Tasmanian Liquor and Gaming Commission's principle of ensuring that players spend only what they intend to spend. It also aligns with the operation of the current pre-commitment system for the casinos' premium player loyalty program.

(2) The commission is currently working through the detail of implementation of the player card gaming policy. Matters such as that referred to in the question are currently being determined through discussions with the new licensed monitoring operator (LMO), Maxgaming, which will operate the card-based system. These discussions, together with consultation with the venues will inform the specifics of the player card gaming system which is to operate in Tasmania.

CLIMATE CHANGE (STATE ACTION) AMENDMENT BILL 2021 (No. 63)

In Committee

Resumed from above.

Recommitted Clause 6 -
Proposed new section 5F

[2.56 p.m.]

Ms WEBB - I believe I basically finished my remarks for my call, but I appreciate the opportunity to finish it off here.

The points I made are fairly clear. I still believe that the clear intent of that clause that was inserted is necessary and is required by the community and by this parliament as part of accountability for government action. I also think it sends a very clear message and it is important to be there on that basis as well.

I do not believe that there is not a workable way to have a clause of that sort in there. So if we withdraw it today, if that is the will of the Chamber, I expect and hope that the Government brings back a proposal to put in a similar intended clause at our next opportunity with this bill.

I am still going to be voting in support of keeping the clause in the bill because I still think it is important to have it there at this stage. As we embark on all the other tasks that the bill provides for and maps out for us across the next few years, this imperative needs to be in place alongside that work. I accept the Government has received advice. I believe it needs to be there.

That is where I have landed on the issue.

Recognition of Visitors

Madam CHAIR - Before I call on the other speakers, including the Leader, I welcome another group of grade 6 students from Scotch Oakburn College in Launceston. It is lovely to see you here. The member for Windermere is waving, he probably knows some of you. The member for Launceston also has students who live in her electorate and attend that school, and possibly others.

We are in the middle of a Committee stage of a bill, and it is about the climate change action bill. I am sure that is a matter that is extremely important to the young people at the back of our Chamber. We are trying hard to finalise this process where we look at each clause by clause. We thought we had finished it a couple of weeks ago, but the Government wanted to come back and make another change. That is what we are debating now.

Welcome, and I hope you enjoy your time here.

Members - Hear, hear.

Mrs HISCUTT - The member for Nelson had posed a question during her contribution. The Government can commit to having this matter thoroughly considered as part of the next independent review of the Climate Change (State Action) Act, which is due to get underway in 2024. This review will have the added benefit of having a policy framework in place to support decision-making and develop the capacity and capability of the public sector to consider climate change in its plans, policies and strategies.

Mr VALENTINE - We have to read what this actually says:

> Making a policy decision
>
> A Tasmanian policy decision-maker must take into account the effect on climate change that the policy decision is likely to have -

Madam CHAIR - To remind the member, it was amended to say 'is to'.

Mr VALENTINE - Sorry, I am reading from another:

> … is to take into account the effect on climate change that the policy decision is likely to have;

It is showing an intent in this. As far as I am concerned, they want it to be clear in the minds of the decision-makers, the policymakers, that climate change is a thing and climate change is something that needs good consideration. It is not stipulating certain actions. It just says 'take into account'. That is all that this amendment is asking for. The effect on climate change that the policy decision is likely to have. I do not think that it is that tight that it is going to cause a problem and I would not think that it would be that tight that it would cause a problem legally. I know the Government has received advice and that advice is what the Government has received and I can appreciate that. I will still be asking for this to be in the bill.

Mrs HISCUTT - I will not progress that argument again because I have already done that.

Madam CHAIR - I am going to get you on repetition if you keep it up.

Mrs HISCUTT - I will not, other than to say, legal minds which are better than yours and mine, member for Hobart -

Mr Valentine - I am sure.

Mrs HISCUTT - have made the call on this and the Government would be ill-advised not to follow that advice.

Madam CHAIR - The question is that new clause 5F be disagreed to**.**

The Committee divided -

AYES 12	**NOES 2**
Ms Armitage	Mr Valentine (Teller)
Mr Duigan (Teller)	Ms Webb
Mr Edmunds	
Ms Forrest	
Mr Gaffney	
Mr Harriss	
Mrs Hiscutt	
Ms Howlett	
Ms Lovell	
Ms Palmer	
Ms Rattray	
Mr Willie	

New Clause 5F disagreed to; amendment negatived.

CLIMATE CHANGE (STATE ACTION) AMENDMENT BILL 2021 (No. 63)

Consideration of Amendments made in the Committee of the Whole Council

[3.06 p.m.]

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

That the bill as amended in Committee, be now taken into consideration.

Motion agreed to.

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

That the amendments be read for the first time.

Amendments read the first time.

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

That the amendments be read for the second time.

Amendments read the second time.

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

That the amendments be agreed to.

Amendments agreed to.

Bill as amended agreed to.

Bill read the third time.

SUSPENSION OF SITTING

[3.09 p.m.]

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

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

This is to continue our EMPCA briefing.

Sitting suspended from 3.09 p.m. until 3.35 p.m.

RECOGNITON OF VISITORS

Mr PRESIDENT - I welcome another group from Scotch Oakburn from Year 6 to our Chamber today. I believe you came in while we were at a briefing, which is an important part of what we do here. It is how members get information on the legislation that is put before us. We are about to go into what is called the second reading of a bill stage and members of the Legislative Council get to talk about the bill and if they agree with it or feel it could be fixed up in any way.

I am sure all members will join me in welcoming you to the Chamber today.

Members - Hear, hear.

LAND USE PLANNING AND APPROVALS AMENDMENT BILL 2022 (No. 29)

Second Reading

Resumed from 27 October 2022 (page 55).

[3.36 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, the Government had finished the second reading speech and was looking forward to other member's contributions from the bill.

Mr VALENTINE (Hobart) - Mr President, every time I see something come through in relation to the Land Use Planning and Approvals Act I think, what are they going to cut out this time? That is a concern for me. Having come from a local government background, I know how much importance the community place on due process, when it comes to matters involving development and how it might impact and affect them, or their community's environment.

We have all seen plenty of passion over the years where major projects - in this case while this has not been in play that long, or at least has not been tested that long, Bridgewater Bridge being the project that has undergone that process. There is a lot of community concern with even the hint of projects that might take place. You only have to witness something like the stadium on Macquarie Point and how much public comment that gets. So, whenever a bill like this comes through, I am always keen to learn how due process might be impacted. As I initially read through the second reading speech, there are a lot of things that pricked my ears up. I read the statement that is made here:

> The amendments are intended to make the process more efficient and responsive to the nature of future projects, which are increasingly characterised by evolving designs as a result of contractual processes …

I see the 'more efficient and responsive' and feel that can quite often can lead to changes that undermine the capacity of the community to have a say. In this particular instance I started a bit when I read that and then I read on -

> … which are increasingly characterised by evolving designs as a result of contractual processes ...

A project like Bridgewater Bridge is a huge project in terms of cost. It goes across a couple of municipalities and that is the reason the major projects process was actually chosen for this one. It saves the project having to deal with two different authorities, when it comes to development approval and those sorts of things. I can understand that a major project might have aspects that need attention, and there does need to be a little flexibility here; for instance, the area of land involved, and that is dealt with in this bill.

I understand it went out for a five-week consultation period. I have to say, I have not had people belting down my door saying, 'Hey you have to do something about this, this is something that is really a concern to us'. I am comforted by that; but by the same token, you cannot expect that members of the community have their eyes on the paper all the time when consultation is advertised. It might be that consultation is only to a narrow field of people and some of those people who have an interest in planning do not get the opportunity to get their eyes on it. I appreciate that it has gone out for five weeks to local councils, state agencies and authorities, professional, industry, environmental and community groups and, importantly, the regulators and the independent Tasmanian Planning Commission. Obviously, the Government has cast this net reasonably widely, but I wonder how wide - given that I have not heard from people. That is the only thing that is in the back of my mind.

The amendments, as the Leader has read through the second reading speech, have four broad themes: clarifying the original intent of the process; aligning and updating the process to match current legislative situations - I am not 100 per cent sure what that means, but we will see in the Committee stage; and to allow the assessment process to accommodate changes as the project design and details evolve.

As I have mentioned before, sometimes things do happen. For instance, with the Bridgewater Bridge proposal, there was a discovery of some Aboriginal heritage items, and this particular bill addresses some of that 'sensitive information', it is called. The Leader has told us that in the wrong hands, it could lead to the destruction or harm to a culturally sensitive site or relic. I understand that sometimes it is important to be careful when it comes to revealing where those sorts of relics are. I know one instance on the north-west coast where a wooden structure was found, and it was talked about in the media, and the following weekend it was burnt down. What a loss of heritage - an Aboriginal shelter, which happened to have survived a significant period of time; all of a sudden, it is gone.

I would hate to think that this change in any way prevents the Aboriginal community themselves from finding out about the heritage that has been uncovered. That would be a concern of mine. We know there is work being done on an Aboriginal Heritage Act, and it will be important to see that come to fruition. The Aboriginal community does not want to be continually having to pore over newspapers and the like and continually be alert for things that might be going on that impact their Aboriginal heritage. It should not be that way. Obviously, a government of any colour must be satisfied that it is not going to desecrate an area or harm Aboriginal heritage. It should not be up to the Aboriginal community themselves to raise these things as issues. In the Bridgewater Bridge case, we were told that the fact that the processes existed was the very reason why a halt to work was called.

That is a fair thing to say. If there are processes and procedures in place that recognise when something of significance is uncovered or discovered, that appropriate processes are put into play. It may well be that it is new material that has been uncovered. We do have to make

sure that by protecting this sensitive information, that we are not actually trying to do anything covert, in relation to that. That would be my concern if that were to occur.

Keeping it from the public eye, in some senses, I can understand, but keeping it from the Aboriginal community - one might say, well the Aboriginal heritage unit within the relevant government department has its eyes on it and gets to know about it. That is one thing, but the general Aboriginal community is very keen to protect these sorts of areas. One would hope that at least the Aboriginal community themselves through their various bodies have an opportunity to learn of these things, even if it might not be more broadly shared with the general public.

We are told that the final version of the bill seeks only to control sensitive information relating to Aboriginal heritage. As long as it is controlled in the right manner and not purposely hidden from the Aboriginal community itself, that is the important thing for me.

In the second reading speech it says:

> Where such sensitive information is identified, that information must not be included in a document given to another person prescribed in the act; must not be disclosed in any meeting or hearing; must not be disclosed in discussions between a member of the public and the minister, a regulator, a member of the assessment panel or the commission; and must not be disclosed during proceedings of the Tasmanian Civil and Administrative Tribunal or a court.

That is pretty heavy stuff. It draws to mind an issue, when it comes to the Public Works Committee, where we sit in that. When we are sitting in judgment on a particular project or reference, how are we as a committee to be able to take those sorts of things into account if we are not allowed to find out about them?

It is a question that I want addressed at some point, Leader, if possible.

Mrs Hiscutt - I will seek a more lengthy answer, but it has to do with Aboriginal culture.

Mr VALENTINE - Yes, but all I am saying is when we sit on a reference, we ask questions about all sorts of things and Aboriginal heritage is one of those questions.

Mrs Hiscutt - I will seek a more lengthy answer for you.

Mr VALENTINE - We would want to know, to what extent Aboriginal heritage existed on the site? Whether appropriate steps have been taken to protect it or what steps have been taken in relation to it? They are important things for us and we have to sit with open doors. So, we cannot sit in a confidential space and hear that sort of information, I do not believe. I want that to be addressed if I can.

It talks about land that is outside the area declared for a major project cannot be used for the major project. 'Contemporary design and construct processes for significant infrastructure projects often mean the design of the major project evolves in response to site works and discoveries and engineering documentation'.

I mentioned earlier that it is something that does happen. There needs to be a process in place to deal with that. This attempts to deal with that. I hope that in doing that, that the landowners concerned have their rights protected and they are not being disadvantaged because a major project ends up requiring another 700 square metres of their land, which might be an important area of land. It might have buildings on it. It could be anything. Who knows?

It is important whatever processes and procedures take place that they are protected, they have rights, and it is not just a 'Well, I am sorry, your opinion does not really matter in this, we have to go forward, it is a major project', and that is the way it is. I would hate to think that is the case. After the Public Works Committee has actually dealt with these matters and maybe signed off on the project with an understanding there were no significant concerns or issues from landowners around - because we do hear from landowners, they do come along and brief us on what their concerns and issues might be. Especially, when it comes to things like cattle underpasses and all of those sorts of things. Once we have given it the tick-off that is probably the last opportunity they have to be heard. When extra land is acquired to enable the project to happen, it is important due process is there and able to see them get some semblance of justice.

On the whole this bill is not as detrimental as I thought it first might be and I am happy with that to a degree. However, I question one thing here in the second reading speech. It says:

> Once the declared major project area is amended, notification is also given to the same parties, and in the same manner as for the original declaration.

I am assuming that with this extra land going on to the major project, there will not be any appeals process for a farmer or a landowner to be able to go through if they object to their land being taken over as a result of this change in footprint. Can the Leader tell me what appeals processes might be available, if any?

There are issues on what a person may or not be able to do on their land. The second reading speech says the current legislation is not entirely clear in relation to what landowners whose land is included within the area declared for a major project and they were not the proponent, can or cannot do on their land while a major project is being assessed. This bill clearly sets up a situation or it provides for a landowner to continue development they may already have approval for. That is a positive.

The bill also deals with the proposal for further options for amending a major project permit. In fact, the Leader in the second reading says it is the most significant part of the bill, and that the current act provides for amendment of a major project permit as either a minor amendment under the section 60ZZW of the act - look through the Land Use Approvals Act, it has that many sections it needs a rewrite. 60ZZW. The Leader says it:

> provides for amendment of a major project permit as either a minor amendment, under section 60ZZW of the act, or through the long and complex process which involves the submission of an entirely new major project proposal, effectively starting the assessment process all over again.

They point out that there is no middle ground available and the changes proposed are relatively simple, but still ought to be subject to public exhibition and detailed scrutiny.

> The bill proposes to provide for an additional major project permit amendment process that caters for adjustments to the major project ...

That was the one that I was concerned with. I understand that appeal rights under major projects are not through the normal council process. If a DA is called for, basically, it goes through the commission. I stand to be corrected; but, the commission ends up being the arbiter, not a council. I hope that with these amendments, there are no detriments to people who might have a real grievance.

I will leave it there. I will listen to what other people have to say and we will go from there. I hope that this is as light a touch as it seems to be portrayed, and that people's rights are not being undermined as a result of the changes that come through this bill.

Recognition of Visitors

[3.56 p.m.]

Mr PRESIDENT - Honourable members, before I call on the next speaker, I welcome another group into our Chamber from Scotch Oakburn, Year 6. What we are doing at the moment is the second reading of a bill. This one is the Land Use Planning and Approvals Amendment Bill 2022, a fairly exciting piece of work dealing with planning issues, but an important piece of work. This is called the second reading stage where members get to talk about the bill and whether they support it or otherwise. When we go through this stage, where all members have the opportunity to speak to the bill, we then go into the Committee stage where we work through clause by clause, and that is where bills can be amended. If it survives that process, then it gets to the third reading, which then means the bill is ready to go to the Governor for approval after it is reported back to the lower House. It is a bit of a process, but it is interesting.

It is good to see such a big group from Scotch Oakburn taking an interest in the democratic parliamentary system and I am sure all members will join me in welcoming you to the Legislative Council Chamber today.

Members- Hear, Hear.

[3.58 p.m.]

Ms ARMITAGE (Launceston) - Mr President, planning is a complex area, but this amendment bill substantially improves the current legislation with general improvements to the bill. I am pleased to see in the bill that it is enabling easier public involvement in the major projects assessment process. As we all know, it is important for the community to have a meaningful say about development. All too often, things are rushed through without the community having their chance to speak on whether they believe there needs to be an amendment or whether they are in favour.

I note in the fact sheet to the amendments:

> … provide fairer outcomes for landowners who are not the proponent/developer but whose land is included …

I am sure we have all had constituents who have had their land compulsorily acquired, but it does not always seem to be fair. There have been many occasions - I had one recently, where they were told their land would be perfectly fine when cut off, that they could use that section of land for housing. However, unfortunately, sometimes floods and other things come that might not be seen by those who are pointing out to the landowner that this is going to be beneficial to them, rather than not beneficial, when they are acquiring their land.

I am very pleased to see that it is to provide fairer outcomes for landowners who are not the developer, but whose land is included with the major project declaration. The fact sheet notes:

> …The amendments will make it clearer to all involved that a landowner may still apply for a planning permit on their land and also when a major project is completed; …

Could the Leader, in her summing up, explain to me - is that on the land that has been acquired, or on part of their land that -

Sitting suspended from 4.00 p.m. to 4.30 p.m.

LAND USE PLANNING AND APPROVALS AMENDMENT BILL 2022 (No. 29)

Second Reading

Continued from above.

[4.31 p.m.]

Ms ARMITAGE (Launceston) - At the break I was asking the Leader in her summing-up if she could mention when a landowner can apply for planning approval on their land when part of it has been acquired for a major project.

Going through the fact sheet, it is good also to see that the major projects assessment panel has more time to coordinate responses from regulators with an additional 14 days to make the final assessment criteria, and an additional 14 days to prepare the initial assessment report.

I am also pleased to see in the final point, or the final dot point on this page, that it has revised the current major project permit amendment processes to enable an additional process option that is relative to the scale of the proposed permit amendment. It is important that the additional option involves public exhibition of the proposed major project permit amendment, and also public hearings. It is always very important for the community to have their say about any development, but particularly major developments.

I am pleased that the amendments have improved the original legislation. I am supportive.

[4.32 p.m.]

Ms WEBB (Nelson) - I rise to speak briefly on this bill. I appreciated the opportunity to hear the Government make the case for the bill, and a couple of contributions from other members, and maybe there will be some more. I look forward to hearing them if there are.

I had some contact with a couple of key stakeholders, and we have had our departmental briefings as always, which is particularly useful, and I appreciate that. Our major projects legislation has had its first application as such, with the Bridgewater Bridge. That has been a chance for some matters to crop up and opportunities to be identified for some refinements to the act, which makes a lot of sense. It is good to use the opportunity to get some learnings from the applied use of the legislation.

It is good to hear through the briefings process that input has been provided from a range of departmental and internal stakeholders, and also external community stakeholders and industry groups to help refine that as part of the consultation process.

In brief, in principle - probably similarly to some of the comments that the member for Hobart made in his contribution - I support the idea that we can improve processes, and that you can support efficiency and responsiveness in approval processes for major projects. That is an understandable aim to have, as long as - and here is my caveat to that - we retain appropriate processes alongside that, including appropriate checks and balances, public consultation opportunities, and accountabilities. That is the lens I brought to this bill. By the sound of the member for Hobart's contribution, that was similar to him.

I support looking to improve processes for regulators and for the planning commission. It is important. Even in recent times, we know that the planning commission has a lot on its plate. It has even more on its plate now that it has to do a State of the Environment Report by 2024, something which had been identified as not belonging in their patch, but there you go, they have to do one more. Perhaps it will move on after that.

In making our planning processes more efficient and responsive for proponents, we have to ensure there are still time and resources and proper assessments in place for the people who are undertaking the process and the members of the community who have an interest in it and are keen to see it come out well in the community interest. Decisions need to be transparent. Decision-makers have to be accountable to the public. The public needs a chance to have their say.

In relation to this bill, there are a number of aspects where the Government has that balance right. Clearly, the refinements are sensible ones that have come through learnings from practical application of the legislation over time. I note the Government's amendments allowing the major projects assessment panel to have more time to coordinate responses from regulators with the additional 14 days, to ensure applications are properly considered. Further amendments in regard to digital technology, which is a positive way to allow greater public access to material that relates to developments.

I am happy to see the bill is being amended to make it so you can not only have a hard copy, but you can also get digital access and both those things can be available to increase access for the broader public. A couple of other things I will mention. It is good to see we are allowing for the correction of minor administrative errors with a public consultation period of 21 days following submissions made by the public. I think that was the gist of it but I may have that incorrect.

The other thing I am happy to note, when I had a quick scan through the consultation that was done in relation to this bill, there have been instances where matters that were put forward by stakeholders through that consultation have been incorporated and brought into the bill.

Their views have been taken into consideration and the threatened species information came into that. Clearly, there are instances where there were some matters raised through that public consultation process which did not necessarily make it through to full consideration or to making changes in the bill. That is understandable. There will be those instances.

I will mention a few of those matters in passing and there may be some things the Government can add in terms of understanding why they might not have been picked up in the bill. The member for Hobart already spoke about this in terms of the aim of the bill around protecting sensitive Aboriginal cultural heritage. Before mentioning anything in that sense I note I cannot speak in any sense for the Tasmanian Aboriginal community and any comments I make are not to be construed as being on behalf of the Aboriginal community or giving a view that represents theirs. On that point I would hope that full and genuine engagement with those communities has been undertaken and respected in preparing this bill. It would be good to hear a bit about that and how it has come about.

I commend the Government for bringing the particular amendments which aim to protect sensitive Aboriginal cultural heritage. By the look of things, the amendments go a way to ensuring that culturally sensitive material is not going to be exposed to potential damage. We have heard already from the member for Hobart about how devastating that can be and the risk it poses. I have a question on what is culturally sensitive material? The bill does not define this and perhaps it can be further elaborated. I want to know specifically what consultation was undertaken with the Aboriginal community about the amendments that relates to that. Were there concerns raised by that community that then did not make it through to the bill or is what we are seeing here in the bill something that reflects and respects issues or concerns raised?

Whilst the bill proposes to require proponents to seek advice from the regulator for Aboriginal heritage before a development application is lodged, it does not appear that there is a full-scale Aboriginal heritage assessment required, and I wondered about that. There were issues that came up with the Bridgewater Bridge project in relation to some of these sorts of issues. I wonder whether we have still some way to go to land in the right spot around meaningful opportunities for consultation with the Tasmanian Aboriginal community on major projects, and whether we have hit the right spot with that yet.

It would be my view - and I am sure most people's view - that a full-scale Aboriginal heritage assessment should be done in relation to any major projects or activities. Perhaps what we are doing here is adding this extra element to protect Aboriginal cultural heritage, and that has brought us to a place that is acceptable. I wonder what the Aboriginal community has fed back to the department in relation to that with their feedback.

Another concern that was raised related to the element of the bill that deals with how preliminary studies can now potentially occur before assessment criteria are determined, and concerns that in some instances that may then presuppose what would be assessed. I understand there are some practicalities that that is trying to address, that some preliminary studies may need to be conducted in certain seasons, or under certain conditions. For efficiency, or just for practicality, that may need to occur before assessment criteria are determined, to help move the time lines along.

I understand the concern that preliminary studies occurring prior to determining assessment criteria potentially risk further complicating an already complicated process.

I imagine that there could also be instances where they could allow activities which could cause damage. Alongside that sort of particular concern, alongside the idea of sensitive matters pertaining to Aboriginal cultural heritage and how providing an opportunity to progress one, perhaps ahead of assessment criteria, might jeopardise the other.

I imagine - and I certainly hope - that the opportunity to progress preliminary studies before assessment criteria are in place would be used very judiciously and thoughtfully where it is appropriate to do so. I am not sure if we can see a way, or what the way might be, to hold decision-makers to account on that.

The bill does clarify and potentially provide fairer outcomes for landowners who are not the proponent of a major project, but who want to develop something on their land which relates to the major project. Apparently, there was some confusion there. I understand that what is being introduced in this bill is to address that confusion, so that the landowner can progress other sorts of development applications relating to their property while the major project, which also relates to their property, is under way. The member for Launceston had some questions that I would be interested to hear the answer to in relation to that. I will not go over that again.

The one thing I am not sure if the member for Launceston touched on, the one thing that comes to my mind in relation to that is, what if the landowner progresses a development in an area that then subsequently has to be impacted by the major project development? What would the scenario be to manage that compensation that may apply or whatever needs to be done to resolve that situation?

Is there anything that then flows back to the local council, whoever it was who processed the development application for the landowner on their particular development? Are there any implications for their decision-making processes?

There is an element of the bill that relates to adding land to major projects. We discussed this in the briefings, and it probably would be useful to have a little more information put on the record in the Chamber. There is not really a definition of what a 'small' area of land is that may be added. If small is to be understood to be relative to the whole size of the major project development area, small could still be really big, because we could have a major project area covering a very extensive area of land.

A small addition, in and of itself, could still be quite a substantial area of land.

Mr Valentine - Like a powerline corridor?

Ms WEBB - Indeed.

Mr Valentine - Maybe they do not have development applications.

Ms WEBB - That is right. You can see, in that sense, there is the potential for people to perceive that large areas of land are being added through a process that may be less rigorous, particularly if there is no consultation with the public in that process of adding a small additional area of land. That could be problematic.

Another fairly sensible element of the bill relates to the situation - again, this has obviously come up through experience with the Bridgewater Bridge scenario - where if there

is no response from a regulator, what happens then? Does everything have to stay paused until there is a response? The bill deals with this by providing an opportunity for a time frame and a prompt for a response. Then if there is no response, that is taken as consent - silence is taken as consent. This is a sensible way to proceed, as long as there is a reminder process to check back on why a response has not been received, and a prompt for one.

I would also like it confirmed that there are situations where a regulator can ask for an extension of time. Perhaps one of the reasons that the regulator has not responded is that they are overwhelmed with other priorities at that particular time, and may need extra time, an extension of time, to provide a response into that particular major project that is occurring. A confirmation that that extension can be requested and granted if necessary.

One of the things that I am always going to be on the lookout for is situations in which opportunities for public consultation and public input may be reduced and things relating to time frames for that to happen too. We know that sometimes if things are going through quite quickly it can be difficult for members of the public who have a lot of priorities in their life to engage with a process that is underway. There are some elements of the bill that have a new process regarding amendments, and I am looking at those carefully and considering the appropriateness of the public consultation elements that they include or do not include.

In terms of a new process for significant amendments, is there the appropriately expressed requirement to assess environmental harm alongside other sorts of assessments that are being made and whether something is a significant amendment?

Those are some brief, piecemeal reflections, and there are some reflections from other members. I find it interesting to hear thoughts from other members on this sort of bill, particularly those who have been involved in planning matters through councils. They often have a good insight that is not in my background. I appreciate the value in securing efficient processes for major projects, particularly looking at making sure that the workload of regulators and the planning commission and all those different moving parts can be well coordinated. Proper assessment, appropriate checks and balances, community participation are all essential elements that I will continue to be carefully looking out for and championing. I will leave it at that, and look forward to hearing more.

[4.49 p.m.]

Ms RATTRAY (McIntyre) - I have a brief offering on this particular amendment bill. The member for Hobart just showed me the LUPA act, and reminded me how significantly large it is. What, almost two inches thick? It is a lot. Does land use planning and approvals become any easier? I expect not.

Here we have an attempt to refine or improve the major projects assessment process. The only major project that this stage has actually seen since the Major Projects Bill is the Bridgewater Bridge. We obviously did not get that right, because otherwise we would not necessarily need to be here addressing this today. There is no way we can always get everything right first-up.

I am supportive of what has been proposed here. The member for Hobart and the member for Nelson have clearly articulated why this would possibly receive the support I expect it will into the Committee stage.

When you read in the fact sheet - which I am always very appreciative of, and obviously the briefings provided by the Leader, and thank you Leader, for facilitating those - it says:

> [to] provide fairer outcomes for landowners who are not the proponent/developer but whose land is included within a major project declaration. The amendments will make it clearer to all involved that a landowner may still apply for a planning permit on their land and also when a major project is completed.

I know the member for Launceston touched on this in her contribution and I will be interested to hear the response, not only to that question, but the questions raised by the member for Hobart and the member for Nelson.

It is important we do our utmost to put on the public record all those matters raised or we foresee as being a challenge or impediment to this bill working to its best potential.

Enabling easier public involvement in major projects assessment through the use of digital technology but also acknowledging if there are members of the communities who still want to access a paper version, then that is important as well. Not every person in our state has access to technology. There is something to be said for a paper version, I am still quite attached to them myself. The member for Nelson indicated she was having a few issues with her technology. This paper does not move and it also helps me with my scribbling, making notes as I do through the briefing process.

Providing the assessment panel with more time to coordinate responses with an additional 14 days makes good sense. It is certainly supportive of that initiative. Allowing the major projects assessment panel to address any minor administrative errors that may have occurred during the assessment process, including notifying any person that may not have been included in earlier consultations and seeking their view before a final decision is made on the proposed major project makes perfect sense. You do not want to get to the end of a process and then realise you have not included or engaged with all the appropriate persons, because that is when you sense a level of frustration. It can hold up the progress of these works.

The fact we have been informed the bill has been in response to consultation with local councils, state agencies, authorities, professional industry, environmental and community groups, and the independent TPC is comfort to my support for the bill.

I support what has been proposed, and look forward to the Committee stage, where I expect there will be more input.

[4.54 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank my advisers here who have gone to a great deal of trouble to provide fulsome answers to the questions that were asked. I will work my way through this. The member for Hobart was first. When sitting on a committee, can they gain information on Aboriginal heritage if not in a confidential setting? The answer is yes. For sensitive information, it is withheld from public viewing but allowed to be discussed between the panel, regulators and proponents to resolve issues. You also asked about Aboriginal heritage.

Mr Valentine - Mr President, the difficulty is that it is a public forum.

Mrs HISCUTT - Public works.

Mr Valentine - Public works as a hearing from the department,

Mrs HISCUTT - You cannot take in camera information?

Mr Valentine - No, and that is the difficulty here, our hearings are with open doors, that is the problem.

Ms Forrest - Can the committee not decide to have a private hearing? Not just resolve to, no?

Mr Valentine - That is our advice.

Mrs HISCUTT - The answer to that is, you can discuss it, but it is the location that cannot be discussed or divulged in case someone comes along and picks up the heritage part and takes it away, as has happened in the far north-west of the state.

Mr Valentine - It might be difficult when it is a bridge and it is only going over two shores.

Mrs HISCUTT - Then you asked about the Aboriginal heritage, the changes made the process consistent with other assessments by Aboriginal Heritage Tasmania. Only the location is not revealed, the existence is acknowledged and permit conditions apply accordingly and could be discussed in committee. It is just the specifications that would be sensitive.

You also asked, is there is fairness for landowners affected by a major project declaration? The major projects process is a permit approval process, it does not give proponents rights to access or develop land, not in their ownership. The use of others' land as part of a major project will be resolved between the proponents and the landowner prior to the major project proposal being declared. The major projects process has no land acquisition powers. The location of future development or development being assessed by council will be considered when landowners resolve these early issues regarding the major projects within the area with the proponent.

Once the major project is developed, council will need to consider the DA in relation to the use and development associated with the major project. The member for McIntyre asked about landowners and permits, as raised also by the member for Launceston and the member for Nelson. If a landowner progresses a development on land that is then needed for the major project area, what happens? It is the same as for the landowners in the original declaration and this is how it works.

The question is, after a major project has been declared, can landowners within a declared project area, who are not the major project proponent, apply for a planning permit for other use and development on their land? Yes, they can. The amendment bill clarifies that landowners within a declared project area who are not the proponent of the major project can seek other permits for use and development on their land from the relevant authorities.

The intent of the amendment is that once a major project has been declared, the proponent can only use the major projects assessment process to gain approval for the major project and

not use other planning processes at the same time as the major project assessment project is running. The amendment provides further clarity of this intent by enabling the commission to issue a completion certificate once the major project is completed.

Once the completion certificate is issued, this restriction on the proponent will no longer apply. The completion certificate can be issued in stages as stages of the major project are completed. Some examples where landowners might seek normal planning permits could be a farmer seeking planning approval for a large farm shed on land declared for a windfarm or a landowner seeking approval for an addition to their house on land declared for a major highway realignment.

There is an expectation that major project proponents will resolve any potential conflict with landowners during early negotiations to make use of the land.

The member for Nelson asked, can early investigations cause unnecessary damage? Site assessment may be approved resulting in environmental damage that is unnecessary and the studies can be factored into the proponent's project planning without making significant delays. So, permission for early site investigations is issued by the relevant regulator, commission or panel and conditions or restrictions can be included to manage any potential impacts. This ensures that any investigative work is carried out in accordance with the relevant legislation and under the authority of the regulator.

Assessment time lines may be paused because at various points throughout the process the regulators have the capacity to have statutory time frames extended and to make further information requests. This can interfere with the proponent's capacity to plan time-sensitive studies around the assessment process. Major projects are also the only permit assessment process that precludes other approvals being granted to allow investigative studies to be undertaken. For instance, if a windfarm were to be applied for through a level 2 process under the Environmental Management and Pollution Control Act of 1994, where project-specific guidelines are required to be prepared, the process does not preclude a proponent from being granted a permit under the Threatened Species Protection Act to undertake investigative studies.

The member for Nelson asked whether a full-scale Aboriginal heritage assessment is done in the major project's assessment. Have we hit the right spot; original community feedback? Heritage assessments are done to respond to the assessment criteria to prepare a major project impact statement. These are done, as they are now, under the Aboriginal Heritage Act 1975.

The member for Nelson also asked, what engagement has occurred with the Aboriginal community? The package for the bill was sent to the Aboriginal Heritage Council and Aboriginal Heritage Tasmania. The AHC did not respond during the consultation. Officers from Aboriginal Heritage Tasmania raised the issue with the state planning authority shortly after the exhibition of the major projects impact statement for the Bridgewater Bridge, requesting that modifications be made so that the display of Aboriginal cultural information is aligned with processes in the Aboriginal Heritage Act 1975, which is withholding for public display of sensitive cultural information.

The member for Nelson also asked about confirming if an extension of time can be granted if requested by the regulator. The regulators currently have 28 days from receiving the

major project proposal to respond to the panel to advise whether they wish to become a regulator in the process, and provide their assessment requirements. The regulators can request an extension of time from the minister to respond to the panel, if they require longer than 28 days.

The member for Nelson also noted that a small area of land relative to the major project area could still be very big and there could be concerns if a small area is added without public consultation. The question is, when amending the declared major project area, what is meant by a small area? When advising the minister whether it is appropriate to amend the declared project area, the panel or the commission must have regard to whether the additional area of land is small, relative to the overall declared project area. In the decision-maker's view, therefore, the area of land to be added must be considered within the context of the broader defined project area and must also be required to achieve the objectives of the project. The area is not expressed in quantitative terms - such as, a percentage of an existing declared area - because this can result in an arbitrary or perverse outcome when a more qualitative judgment by an independent panel or commission is appropriate. For instance, if the additional area of land was set at 10 per cent of the declared area, but the proponent required 11 per cent, the request could not be considered even though the impacts of adding 11 per cent of the declared area would be the same. In other sections of the LUPA act the term 'minor' is used, but this was considered to be potentially too limiting to the needs of a project.

The member for Nelson also asked, progressing preliminary studies before criteria are in place - how is this held to account? The question is, can the regulators or panel decline a request for an early site investigation? Yes; the commission, panel and the statutory regulators have the discretion to deny a request for an early site investigation permission where they consider it more appropriate to wait until the assessment criteria have been finalised. Conditions or restrictions can also be applied to the permissions to manage any potential impacts. A proponent may apply for a permit to undertake investigative studies prior to a major project proposal being submitted. In fact, they may undertake such studies as part of the scoping phase of the project. It is only the submission of the major projects proposal that acts as a barrier to applying full permissions for early site investigation.

The member for Nelson also asked about proper assessment of environmental harm in new small-scale amendments processes. Environmental harm is addressed through the assessment process of the EPA which, under the assessment, is in accordance with the requirements of the EMPCA.

The member for Nelson also asked, what is culturally sensitive information? This is information that enables the location of Aboriginal relics to be identified by the public. The member for Nelson also asked, why does the new amendment process allow for shortened process time frames? With the middle ground permit amendment process for shortened time frames, if a regulator advises the panel that 'we need more time to assess this one' then the shortened time frames cannot be used. That is, the shortened time frames only apply at the discretion of the requirements of the statutory regulator. It is an assessment of the amendment, not the whole project. It would be in the context of that previous assessment.

Finally, the member for Nelson also asked, is the public involved when additional areas of land are added? Submissions from the public are not sought when an application to add land to a major project area is made. This is consistent with the existing declaration of a major project area. The bill applies a process that would effectively have applied to the land, should

it have been included in the original declaration. Assessment processes for use and development in Tasmania, including a normal planning permit or planning scheme amendment, do not seek public involvement when a site is selected and an application made for use and development. Rather, the public may become involved during the phases when the impacts of use and development are considered. The major projects process, and the bill's process for adding additional land, reflect the existing approvals processes in this regard.

Mr President, that appears to have answered all the questions. I hope it clears some things up.

Bill read the second time.

LAND USE PLANNING AND APPROVALS AMENDMENT BILL 2022 (No. 29)

In Committee

Clauses 1, 2 and 3 agreed to.

Clauses 4 and 5 agreed to.

Clause 6 -
Section 60BA inserted

[5.11 p.m.]

Mr VALENTINE - I am looking for a bit more clarity on this. It is on page 11, clause 6(3), which says:

> For the purposes of this section, sensitive matter is likely to be contained in a category of information if -
>
> (a) information within the category of information is culturally sensitive; …

Clearly, 'a category of information' is not actually defined - it is a bit difficult to define it - but can we imagine it being anything other than Aboriginal heritage? Or is it only Aboriginal heritage that we are trying to nail here?

Mrs HISCUTT - Yes. I can clarify that it is Aboriginal heritage that we are trying to protect.

Mr VALENTINE - It is only Aboriginal heritage.

Mrs HISCUTT - Yes.

Clause 6 agreed to.

Clauses 7 and 8 agreed to.

Clauses 9 and 10 agreed to.

Clause 11 agreed to.

Clauses 12 and 13 agreed to.

Clause 14 -
Sections 60TA, 60TB, 60TC, 60TD, 60TE, 60TF, 60TG, 60TH and 60TI inserted

[5.13 p.m.]

Madam CHAIR - On clause 14, are members likely to have questions on a whole range of these subclauses, or can I call it as one? Call as one? Thank you.

Clause 14 agreed to.

Clauses 15, 16 and 17 agreed to.

Clauses 18, 19 and 20 agreed to.

Clauses 21, 22 and 23 agreed to.

Clauses 24 and 25 agreed to.

Clause 26 agreed to.

Clauses 27, 28, 29 and 30 agreed to.

Clause 31 agreed to.

Clause 32 -
Section 60ZZZAB inserted

[5.15 p.m.]

Ms RATTRAY - Madam Chair, regarding the enforcement certificate, 32(2) refers to:

> (a) the Aboriginal Heritage Act 1975; or
>
> (b) the Threatened Species Protection Act 1995; or
>
> (c) the Nature Conservation Act 2002.

It talks about:

> (2) The Commission must not issue an enforcement certificate in relation to all or part of the land to which a major project permit relates that applies to a condition or restriction …

We have just had the clauses that deal with conditions of the major project permit in relation to the land. Can I have some more clarification about what that actually means? Just some clearer language on that enforcement certificate - because it relates to three particular areas, whereas the question that the member for Hobart asked was only related to the Aboriginal heritage aspect.

Mrs HISCUTT - Currently, an enforcement of conditions of a major project permit is carried out by the relevant regulators in relation to matters on the permit that fall under the Aboriginal Heritage Act 1975, the Threatened Species Protection Act 1995, and the Nature Conservation Act 2002. All remaining conditions fall to the commission to enforce, including where plans are required to be submitted to the satisfaction of the panel.

The bill amends the act to allow the commission to issue an enforcement certificate, at the end of the project or after a nominated stage of the project, to the relevant regulator or planning authority - as appropriate - to enforce conditions of the major project permit on an ongoing basis. It ends up with the enforcement certificates; once they are issued, they stay with those regulators.

Clause 32 agreed to.

Clauses 33, 34 and 35 agreed to.

Clauses 36, 37 and 38 agreed to.

Title agreed to.

Bill reported without amendment.

[5.18 p.m.]
Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - I move-

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

Motion agreed to.

LEGAL PROFESSION AMENDMENT BILL 2022 (No. 45)

Second Reading

[5.19 p.m.]
Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill now be read a second time.

This bill continues the Government's work to resolve technical legal issues arising from Tasmania's boards and tribunals as a result of the High Court's decision in Burns v Corbett 2018 HCA 15.

The bill will amend the Legal Profession Act 2007 to resolve the issue as it has arisen for the Legal Profession Board of Tasmania and Legal Profession Disciplinary Tribunal under the legal practitioner complaints and discipline framework.

To briefly summarise, the issues arising out of Burns v Corbett is that in circumstances where a legal dispute involves matters of the kind referred to in section 75 and 76 of the Constitution of the Commonwealth, notably in this instance, federal diversity jurisdiction, that matter cannot be entertained by a tribunal, board or other subordinate body. Federal diversity jurisdiction arises when the legal dispute is between natural persons resident in different states, or between a state and a natural person resident in another state.

Mr President, Section 417 of the Legal Profession Act provides that its purposes are:

(a) to provide a nationally consistent scheme for the discipline of the legal profession in this jurisdiction, in the interests of the administration of justice and for the protection of consumers of the services of the legal profession and the public generally;

(b) to promote and enforce professional standards, competence and honesty of the legal profession; and

(c) to provide a means of redress to complaints about lawyers.

Complaints are made under the Legal Profession Act to the Legal Profession Board, following which they may be dealt with by the board itself, the Legal Profession Disciplinary Tribunal or the Supreme Court of Tasmania.

Generally, it is the case that matters capable of amounting to unsatisfactory professional conduct are dealt with by the board itself, while matters capable of amounting to professional misconduct, considered to be more serious, are dealt with by the disciplinary tribunal or Supreme Court.

The Legal Profession Act also provides a mechanism for a complainant, or a practitioner who is the subject to the complaint, to appeal a determination of the board to the disciplinary tribunal or the Supreme Court.

Federal diversity jurisdiction may apply to the board or disciplinary tribunal exercise of judicial power in a determination of a complaint in circumstances where the complainant and legal practitioner are residents of different Australian states. Tasmania's legal profession operates within a national legal service market, so it is not uncommon that legal practitioners and their clients are based in different states. For example, the person making the complaint may be a resident of Victoria, while the legal practitioner about whom the complaint has made, may be based here in Tasmania.

In these circumstances and in accordance with the decision in Burns v Corbett, the board and disciplinary tribunal are unable to exercise judicial power in respect of the matter and currently have no option under the Legal Profession Act, except to dismiss it from other jurisdiction. This bill will resolve this issue by creating a new pathway for these matters to proceed.

To be clear, Mr President, this is not an issue that may be cured by simply conferring jurisdiction upon a tribunal, board or other subordinate body through legislation. This is an original jurisdiction of the High Court. The only body, other than the High Court, that might

exercise such jurisdiction is the court of a state that is vested with federal jurisdiction. In Tasmania, that is the Supreme Court and the Magistrates Court.

This is a similar situation to that which our Government addressed last year through the legislation enabling commencement of the Tasmanian Civil and Administrative Tribunal (TASCAT) under Part 9 of the Tasmanian Civil and Administrative Tribunal Act 2020. The amendments in this bill are being progressed separately to the TASCAT amendments because the board and disciplinary tribunal are not part of TASCAT.

The amendments in this bill also take a different approach to those made for TASCAT. The intention in this bill is to resolve the federal jurisdiction issue while preserving to the greatest extent possible the existing legal profession complaints and disciplinary framework. Different provisions are also required because the TASCAT act creates a jurisdiction in the Magistrates Court while the appropriate jurisdiction for the Legal Profession Act is and remains the Supreme Court.

The new section 464A, inserted by the bill, provides the pathway for complaints to proceed under the existing framework where the board or disciplinary tribunal considers that federal diversity jurisdiction applies, or where there is some doubt as to its application and proceedings.

For complaints being heard by the board where federal diversity jurisdiction issues arise, the board will be able to dismiss the original complaint and then make a fresh complaint itself in relation to the same conduct and the disciplinary tribunal can hear and determine the matter. For example, the board, rather than the interstate resident, would be the party and subsequently no federal diversity jurisdiction issue arises for the disciplinary tribunal.

For complaints being heard by the disciplinary tribunal, the amendments will clarify the process by which it dismisses the complaint and an application can then be made for the complaint to be heard and determined by the Supreme Court, which has jurisdiction in relation to matters involving federal diversity jurisdiction.

The differing approaches reflect variances in the complaints processes provided under the Legal Profession Act, or the board and disciplinary tribunal, and the identified circumstances under which federal diversity jurisdiction may arise. In preparing these amendments, the department has aimed to preserve the existing complaints framework to the greatest extent possible.

I now look at the clauses in the bill in sequence. Clauses 4, 5, 6 and 7 of the bill make changes to the complaints provisions within chapter 4 of the Legal Profession Act. These amendments support the more substantial provisions inserted into the Legal Profession Act to deal with federal diversity jurisdiction.

Clause 4 amends section 450 of the Legal Profession Act to enable the board to apply to the disciplinary tribunal to hear and determine any matter the board considers is capable of amounting to either unsatisfactory professional conduct, or professional misconduct, or both. Under the current provisions, the board is unable to make an application where the matter is considered capable of amounting to unsatisfactory professional conduct alone.

Clause 5 amends section 457 of the Legal Profession Act so that the notice requirements in that section will include a decision made by the board pursuant to the new section 464A(2)(a), which I will outline shortly.

Clause 6 also serves to capture a decision of the board made under the new section 464A(2)(a). It ensures that where the board dismisses a complaint pursuant to that section, an application can be made under section 458(1) of the Legal Profession Act to have the matter determined by the disciplinary tribunal, or the Supreme Court.

Under the current provisions in section 462 of the Legal Profession Act the board is only required to notify an Australian practitioner of a complaint about them when the complaint has been received by the board. This would not extend to circumstances where the board itself makes the complaint. Clause 7 amends section 462 of the Legal Profession Act to address this, ensuring a legal practitioner is always notified when a complaint is made, regardless of how the complaint is initiated.

Clause 8 of the bill inserts a new section 464A into the Legal Profession Act, providing a mechanism for dealing with matters involving federal diversity jurisdiction. Subsections (1), (2) and (3) set out the process applying to complaints that have been made to the board, while subsections (4) to (7), deal with applications that come before the disciplinary tribunal. When a complaint has been made to the board and the board considers that the matter is capable of amounting to unsatisfactory professional conduct, subsection (1) provides for the board to also consider whether it may not have jurisdiction to determine the matter because it involves the exercise of federal diversity jurisdiction.

Under subsection (2), if the board considers there is some doubt about whether it has jurisdiction, it may exercise its discretion to dismiss the complaint. The board must dismiss the complaint if it considers that it does not have the jurisdiction to make a determination. If the board dismisses the complaint and an application is not made within 21 days for the disciplinary tribunal, or Supreme Court to determine the matter, pursuant to section 458(1) of the Legal Profession Act, the board then has 60 days within which it may, of its own motion, make a complaint in relation to the matter and apply for the disciplinary tribunal to hear and determine the complaint.

Subsection (3) of the new section 464A provides that the board's complaint is taken to have been made at the time the original complaint in relation to the matter was made to the board. This means that the lapse in time since the original complaint was made will not trigger the time limits for dealing with the complaint contained within section 428 of the Legal Profession Act. Where an application is made to the disciplinary tribunal under section 458 or section 464 of the Legal Profession Act, subsection (4) of the new section 464A provides for the disciplinary tribunal to consider whether it has jurisdiction to determine the matter.

Comparable to the provisions relating to the board under subsection (5), the disciplinary tribunal may exercise its discretion to dismiss the complaint if it considers there is some doubt about whether it has jurisdiction to make a determination and it must dismiss the complaint if it considers that it does not have jurisdiction due to the matter involving the exercise of federal diversity jurisdiction. If the disciplinary tribunal dismisses the complaint, subsection (6) provides that the written notice of the decision issued pursuant to section 482 of the Legal Profession Act must also state that an application may be made to the Supreme Court under

section 486 of the Legal Profession Act to hear and determine a complaint in relation to the matter to which the dismissed complaint related.

Where an application is made to the Supreme Court in accordance with section 486 of the Legal Profession Act, subsection (7) of the new section 464A specifies the day on which the complaint is taken to have been made. This subsection serves a similar purpose to subsection (3) to ensure that the time limitations within section 428 of the Legal Profession Act are not activated by the delay between the original complaint being made and an application being made to the Supreme Court.

Targeted consultation was undertaken with the legal profession on a draft version of this bill and the Government sincerely thanks those stakeholders who provided their views and comments in response to the draft bill. The High Court's decision in Burns v Corbett has had significant ramifications for state tribunals across Australia. The Government is pleased that this bill will address these issues in relation to the functions of the Legal Profession Board of Tasmania and the disciplinary tribunal, ensuring there is an appropriate pathway for resolving matters that may involve federal diversity jurisdiction.

The Government continues to ensure that our legislation remains contemporary and fit for purpose. This bill provides an appropriate response to the decision in Burns v Corbett and ensures that our legal profession bodies remain appropriately empowered to resolve complaints.

Mr President, as an aside, this has given me a new respect for lawyers.

I commend this bill to the House.

[5.33 p.m.]

Ms RATTRAY (McIntyre) - The Leader has taken the words out of my mouth, a whole new respect for our legal fraternity. I have a couple of questions because I am not familiar with the Burns v Corbett matter. That will not surprise anyone in this place. I am interested in the practicality of the application of this and how many matters have been an issue for the courts, the tribunal and boards across the state.

The second reading speech was extensive, fulsome - that would be an understatement - and it did appear to be somewhat repetitive in some aspects but I am sure that was because it applied to various aspects of the amendment bill. I can only take the advice of someone more learned than myself in this area of scrutiny.

I have already said in this place today, I am not a lawyer, and when we get legal advice from people who have a very strong and extensive understanding of these types of amendment bills that come before the parliament, then it is my job to listen to that advice. I do not have anything to be able to challenge it. I am always comforted by the fact that it was clearly articulated in the second reading speech that significant, targeted consultation has been undertaken with the legal profession on a draft version of this bill, and there was a thank you to those. I am interested to know whether from the draft version and that consultation, there was some feedback on what did not sit well with the legal profession following Burns v Corbett.

I only have those couple of questions. My good friend and colleague who sits beside me said he expected a 30-minute contribution. That would be entirely inappropriate because

I would be ending up waffling and no-one would be listening. It is fair to say that just those basic questions when we are addressing something as significant that relates directly to the legal profession, that is my contribution at this point in time. I would appreciate some feedback on those couple of areas, and I am not sure that even over the summer break I will have time to drill down into the Burns v Corbett matter.

[5.37 p.m.]

Mr GAFFNEY (Mersey) - I rise not to give a huge contribution to this but to provide some information as I said in the briefing this morning. Page 6 of the second reading speech, there was a quote:

> Targeted consultation was undertaken with the legal profession on a draft version of this bill, and I sincerely thank those stakeholders who provided their views and comments in response to the draft bill.

When somebody makes a comment like that I am always interested in who the stakeholders are, because it helps us to understand the people in Tasmania or elsewhere that the Government seeks advice from. I received this response from the senior adviser of Justice, David Sealy, and I appreciate that David said he was more than happy for this information to be shared. I cut and pasted a bit because they do go on a little, sometimes. It was all good information:

> Dear Mr Gaffney,
>
> I have recently commenced as the Senior Justice Adviser to the Attorney-General. The Attorney-General has requested I provide you with details of the consultation undertaken in relation to the Legal Profession Amendment Bill 2022. Targeted consultation letters were sent to the Supreme Court of Tasmania, the Magistrates Court of Tasmania, the Law Society of Tasmania, the Tasmanian Bar Association, the Legal Profession Board of Tasmania, and the Disciplinary Tribunal.
> Written submissions were received from the Legal Profession Board and the Disciplinary Tribunal. The Department of Justice also provided a briefing to the executive director of the Law Society of Tasmania, and met with the then chair of the Disciplinary Tribunal to discuss written submissions.

Then I asked about how those submissions were in relation to the issue:

> The stakeholder submissions were broadly supportive of the policy intent of the amendments contained in the bill. There were some questions raised about technical aspects of the drafting, and those submissions have been considered in the final drafting of the bill.

That gives some background information for people regarding the stakeholder involvement. I am comfortable that the bill has been thoroughly consulted with those appropriate people.

[5.39 p.m.]

Ms FORREST (Murchison) - I thank the Leader for the briefing. It was really helpful. After reading through the second reading speech a couple of times, I was not clear on what

exactly we were doing or seeking to achieve. After the briefing and then re-reading the second reading speech after that was very helpful.

This is important legislation. We know that when lawyers do not do the right thing by their client, how detrimental that can be. Even though we were earlier admiring lawyers, there are some pretty shonky ones too. There are some who do not necessarily act in a way we hope they all would. Otherwise you would not have, as I heard in the briefing, around 100 complaints a year. They are not all good. They do not always do the right thing, as is the same with all professions. I have dealt with constituents who have been very unhappy with their lawyers. It was interesting that in the information provided to us in the briefing, there are about 100 complaints a year and 18-20 per cent of those had to be dismissed because of federal diversity jurisdiction.

I was pleased that the Leader through the briefing informed me it is not the usual meaning of diversity, it means there are different jurisdictions around states or territories involved.

I tried to think through how we would end up with 20, or thereabouts, needing to be dismissed. This means, as I understand - the Leader can correct me if I am incorrect in this - that there have been around 20 cases a year where the person who is using the legal service is based outside of Tasmania and they are using a Tasmanian lawyer. This is where this legislation is required when things do not go well for that particular client and they have sought to make a legitimate claim of either unprofessional, unsatisfactory conduct or professional misconduct, the second being much more serious. They have had no right to have their case heard through the Legal Profession Board.

A lot of mainlanders have been buying property in Tasmania in the last couple of years, and maybe they are not happy with the advice on that. I am interested to know for what sort of services mainlanders seek legal support with Tasmanian lawyers. Most of us go to lawyers in our own town or your own state, generally.

I would also be interested to know which other states and territories have addressed this anomaly in their legislation. Obviously, it affects all jurisdictions once the Burns v Corbett decision was handed down in 2018. I am interested to know which other jurisdictions have dealt with that.

It is important that people do have a right of recourse, where they have been unhappy or felt let down by their lawyer or particularly where the lawyer has acted with professional misconduct. That is a serious matter and can have significant ramifications for the individual. They could lose a lot of money. They could lose their home. All sorts of things could happen to that person unless this legislation is dealt with. As I understand it, the situation where the person is in Victoria, New South Wales or wherever, and they have used a Tasmanian lawyer, they would not have any recourse without this. It would be dismissed.

I also ask the Leader, can a person decide about the process they undertake? We did hear in the briefing that for unsatisfactory conduct, usually that is dealt with at the board and maybe goes to the tribunal, but you would hope that the board could deal with the unprofessional conduct matters. Does not always happen though?

If someone is unhappy with the outcome of the proceedings with the board, can they then escalate it with an unsatisfactory conduct complaint? With the professional misconduct

complaint, can that person go straight to a court if they wish to? Not that many would want to because of the cost involved. Do they have a choice here? They may previously have had unfortunate experiences with the board or tribunal, or it may be a second complaint, for example. I want to understand the process more. Does this bill alter that aspect of it, other than in the ways that have been described in the second reading speech, in that it enables the complaint, the matter to be dealt with through the processes that involve the board, the tribunal and potentially the courts, depending on the progress of that?

I understand, too, from the second reading speech and the briefing, that the process that unfolds here is that if a person wants to make a complaint through the process and they live interstate, that it is not them that is making that complaint where federal diversity jurisdiction is an issue, it is the board. The board effectively becomes the complainant and then the board then takes the process on behalf - I assume it is on behalf of the complainant? That goes back to that question, does the complainant have any choice about what the board does with that? Does the board go through the tribunal, or does the board go straight to a court?

I think I am being clear on that and people understand what I am asking. The reason I am being a little bit particular about this, is that over my time in this place I have had a number of people come to me with complaints with their legal professional. It has been frustrating sometimes, when you cannot seem to get to the place - this is people in Tasmania, using Tasmanian lawyers - of even getting resolution through that process. It must be even more difficult in this circumstance this bill sets out to address, but effectively the processes will be similar in terms of trying to get resolution.

When the Leader mentioned in the second reading speech that currently:

> Under subsection (2), if the board considers there is some doubt about whether it has jurisdiction, it may exercise its discretion to dismiss the complaint. The board must dismiss the complaint if it considers it does not have the jurisdiction to make a determination.

Such as in the federal diversity jurisdiction. That is obviously one where they have to. They do not have jurisdiction to do that:

> If the board dismisses the complaint and an application is not made within 21 days for the disciplinary tribunal, or Supreme Court to determine the matter, pursuant to section 458(1) of the Legal Profession Act, the board then has 60 days within which it may, of its own motion, make a complaint in relation to the matter and apply for the disciplinary tribunal to hear and determine the complaint.

I assume when the board is taking on this role, they do it in consultation with the original complainant? They do not go off on their own little frolic here, but it is working with the original complainant during that process. Overall, it is probably a fairly simple thing we are doing here, it is just the legal jargon and the processes around it that make it a little bit more difficult to follow.

I acknowledge that a similar provision was put into the TASCAT legislation, but complaints around legal professionals are not dealt with through TASCAT, they are dealt with through the Legal Profession Board. Obviously, it needs to be addressed here.

I hope those questions are clear. It is trying to understand how it will work in practice and if someone comes to us - and I get calls from people from the mainland about dealing with matters related to Tasmania. Sometimes, there will be a local member over there who refers there, and sometimes I will do the same. I will refer people to a local member in Victoria, or New South Wales for matters related to their jurisdiction. We are all doing it for the benefit of the people we represent. Trying to get the best outcomes we can and we know that lawyers are not cheap. Their advice is expensive, and where it has not met your need there is a very real need to have a proper and defined process around that, where there is a reasonable chance of resolution. You are not always going to get the answer you want, but you do need to have a proper process where it can be properly assessed and considered, and if someone has done the wrong thing, a lawyer, or a member of the legal profession has done the wrong thing, that they are able to be taken to task for that. Otherwise they will do it again. Sadly, we have seen that in some cases.

I certainly support the bill in principle. I am interested in the answers to those questions in understanding the operations of the process and the problem we are actually seeking to address.

[5.50 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have some more information to come but I will start here. The member for McIntyre asked a question about complaints and the question was pretty well answered by the member for Murchison. The Legal Profession Board has estimated about 18 per cent of complaints or approximately 20 matters each year are affected by federal diversity jurisdiction, noting the precise number will vary from year to year. It should also be noted that not all such complaints are unable to be dealt with at all as conduct capable of amounting to professional misconduct must be dealt with in the Supreme Court which is able to exercise federal diversity jurisdiction.

The member for McIntyre asked, from the consultation, what did not sit well with the legal profession? The stakeholders were all satisfied with the final draft so they were happy. The member for Murchison asked, what is the position in other states? The typical position in other states is that their legal complaints are considered by general, civil and administrative tribunals that have provisions for federal diversity jurisdiction. For example, like the federal issues in TasCAT, they may be referred to the Supreme Court.

The member for Murchison asked, can a person make a decision about what process they undertake? Does the bill alter that? The bill preserves the rights of complainants to make their own complaints to the Supreme Court. However, if the person does not exercise that right the bill allows the board to make its own complaint. In practice this usually relies on cooperation with the complainant. For what sort of services do people interstate retain Tasmanian lawyers? It could be all kinds of reasons including commercial matters, family law, conveyancing, civil litigation. There is nothing in particular that comes forward. It could be for any reason whatsoever.

Bill read the second time.

LEGAL PROFESSION AMENDMENT BILL 2022 (No. 45)

In Committee

Clauses 1, 2 and 3 agreed to.

Clauses 4, 5 and 6 agreed to.

Clauses 7, 8 and 9 agreed to.

Title agreed to.

Bill reported without amendment.

[5.54 p.m.]

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

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

Motion agreed to.

SUSPENSION OF SITTING

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

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

This is for the purposes of a dinner break.

Motion agreed to.

Sitting suspended from 5.55 p.m. until 7.24 p.m.

MOTION

Deferral of Business

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

That intervening business be deferred until after consideration of order of the day No. 5.

Motion agreed to.

ANIMAL WELFARE AMENDMENT BILL 2022 (No. 42)

Second Reading

[7.25 p.m.]

Ms PALMER (Rosevears - Minister for Primary Industries and Water) - Mr President, I move -

That the bill be now read a second time.

Animal welfare is an important issue and Tasmania's Animal Welfare Act 1993 is robust legislation that ensures the welfare of animals, including pets, livestock and wildlife.

The act was always intended to be improved and enhanced in line with community standards, new knowledge and real-world experience with its operation.

The intent for the act to promote continuous review, and improvement of Tasmania's animal welfare system is reflected in the establishment and functions of the Animal Welfare Advisory Committee (AWAC) under sections 39 and 40. The AWAC provides advice to the minister on animal welfare matters and its membership is drawn from a diverse range of government, industry and community organisations with particular interest and expertise in animal welfare issues.

One of the AWAC's core legislative functions is to conduct an ongoing review of the laws relating to animal welfare and to recommend to the minister changes in animal welfare legislation.

The act has been amended several times in the three decades since it commenced. The most recent of these amendments was in 2013-14. Since then, officers responsible for on-the-ground animal welfare investigations and enforcements, which include both government officers and officers employed within the RSPCA, have identified the need for additional improvements in the act.

The AWAC was also asked by the then minister to review the act and make any recommendations on future amendments. These two processes identified the need for a suite of further amendments to the act, which led to the development of the amendment bill that is now before the House.

I will take the House through the key amendments proposed in the bill. However, before I do that, I note that this bill is the product of advice and public consultation. As I indicated earlier, the amendments proposed are the outcome of a review conducted by the AWAC. The AWAC represents key Tasmanian animal welfare stakeholders including the RSPCA, local government, Animals Australia and the Tasmanian Farmers and Graziers Association (TFGA).

The bill was also released for a public consultation period for four weeks, which closed on 20 July. The Department of Natural Resources and Environment Tasmania (NRE Tasmania) received 85 written submissions on the draft bill from a wide cross-section of the community. All the submissions have been carefully considered by NRE Tasmania prior to the bill's introduction to parliament.

I take the opportunity to thank all those people who have contributed to the development of the bill and made submissions during the consultation process. These contributions are essential to ensuring that the bill is fit for purpose and that the act continues to reflect contemporary community expectations and standards in relation to animal management and welfare.

I now move on to explaining the key amendments to the act that are being proposed. The first of these is to amend the animal cruelty offence in section 8 of the act to specifically ban pronged collars which are used to correct animal behaviour by inflicting pain and discomfort. The ban was first recommended by the AWAC after its 2013 review of the act. It will apply to the use of pronged collars on any species of animal, even though such collars are primarily used for training dogs.

The ban on pronged collars is supported by the national and Tasmanian branches of the RSPCA and the Tasmanian branch of the Australian Veterinary Association. They say the use of pronged collars is both physically and emotionally harmful to dogs and does not constitute a reasonable or justifiable training method when compared with other available methods that do not involve inflicting pain.

The ban will bring Tasmania into line with Victoria where pronged collars have been prohibited since 2008. There is also currently a proposal by the Queensland Government to ban their use and the import of pronged collars into Australia is prohibited under Commonwealth legislation.

The next amendments I will talk about are aimed at improving and simplifying the conduct of court prosecutions under the act. The bill includes amendments to provide for an alternative conviction under section 8 of the act, 'Cruelty to animals' if the person is not found to have been intentional or reckless in causing suffering under section 9, 'Aggravated cruelty'. This removes the current need for duplicitous charges under both sections 8 and 9 where the amendments and alternative verdict on a single charge will be available in cases where the court finds a person has committed cruelty through neglect, or omissions to perform a duty in breach of section 8 but is not satisfied beyond reasonable doubt that the cruelty was intentional or reckless in breach of section 9.

There is also a proposed amendment to section 3A of the act, which deals with the care or charge of animals. Currently, a person can potentially evade their legal duty of care by abandoning an animal and denying ownership. In such situations, despite there being prima facie evidence of the owner's identity, proving beyond doubt who is - or was - responsible for the care or charge of an animal can be unnecessarily difficult and expensive for investigating authorities. This problem often arises in cases where the apparent owner of a mistreated or abandoned animal obstructs an investigation or refuses to cooperate with animal welfare officers.

The amendment will enable an evidentiary presumption that a person had control, custody or possession of an animal to be created by an allegation in a formal prosecution complaint. A defendant can rebut the presumption by producing evidence that shows, on the balance of probabilities, they did not have control or possession of the animal. For example, in the case of livestock, such evidence could be National Livestock Identification System (NILS) records which indicate another person was the livestock owner, or that they never had possession of the animal.

This amendment will allow the prosecution to require defendants to disprove an allegation they had the care or charge of an animal; in other words, to reverse the onus of proof on that aspect of the case. I want to emphasise it is not intended that this amendment will change the standard of proof that is needed to convict a person of any offence under the act. A court will still need to be satisfied beyond reasonable doubt of a defendant's guilt to convict. The prosecuting authority will also need to be able to prove beyond reasonable doubt all elements of an animal welfare offence with admissible evidence - and that will always require a great deal more evidence than simply making an allegation in a complaint.

The amendment will likely provide added incentive for animal owners to properly identify their animals, to trace and manage their animals' movements and to keep good records. A person who has done these things will have evidence to rebut false allegations regarding their ownership or possession of an animal. Apart from the legal protection, an added benefit for livestock owners is enhanced animal traceability, which supports a rapid and effective response to a disease outbreak.

Mr President, I will now move onto amendments and clarifying the functions and powers of animal welfare officers, particularly in respect of the entry to premises and the possession of animals.

Section 16 of the act requires amendment to give authorised officers the power to enter premises, including dwellings, in an emergency such as fire or flood, to provide immediate assistance to animals in urgent need. This power to enter a premises without a warrant would only be used in situations where an emergency exists or where the animals are in actual or imminent danger.

The next amendments - additions to section 17 and the insertion of section 17A in the act - are aimed at expanding and clarifying the scope of an officer's powers to take possession of animals. Amendments to section 17(1) add new grounds and replace the word 'and' with 'or'. These amendments will enable an officer to take possession of an animal if they reasonably believe that any one or more of the following grounds exist:

> An animal welfare offence has been, is being or is likely to be committed in respect of the animal; or
>
> The animal requires medical treatment by a veterinary surgeon to relieve or reduce the pain or suffering of the animal; or the animal's life is endangered; or
>
> The animal's pain or suffering will be unreasonably or unjustifiably prolonged.

The changes will complement the extension of powers under section 16 which allow entry to a premises or dwelling in the case of an emergency.

The insertion of the new section 17A into the act will enable a magistrate to order that an animal be removed from the custody of a person if satisfied that, without the order, the welfare of the animal is at risk. This new provision was necessary to enable a magistrate to make such orders to prevent animal cruelty on the application of an officer, and purely for welfare reasons.

The act currently only allows such orders to be made by a court after cruelty has occurred, where the owner of the animal has been prosecuted and found guilty of an offence.

The meaning of 'disposal of an animal' has also been clarified to include euthanasia, sale or rehoming. Including the options available for animal disposal in the legislation, from euthanasia to sale or transfer of ownership to the RSPCA or the Crown, will allow for better animal welfare outcomes and will align Tasmania with similar provisions in other states.

The bill will also amend section 24 of the act to reduce the time for which carcasses of animals euthanased by officers must be kept from 7 days to 48 hours. Holding carcasses can create difficulty in cases where appropriate storage may not be available, particularly for large animal carcasses. Carcasses from animal welfare cases usually have no commercial value and they are disposed of by deep burial in a municipal landfill. This amendment has no direct bearing on animal welfare but enables better management of carcasses with faster disposal if required. It will reduce the cost of responding to animal welfare cases where animals are euthanased as a last resort.

The last point leads me to the next amendments, which provide for early pre-trial cost recovery from animal owners for care of seized or treated animals and to remove doubt that this applies to costs incurred by the Crown.

The amendments allow a court to make cost orders so that the owner can be required to pay any costs and expenses properly incurred by a person, including the government, in providing care or treatment to an animal. This promotes more efficient functioning of the legislation by alleviating the burden on the public purse to bear the costs of animal care. This power is particularly important in cases involving large numbers of animals or protracted periods of care. At present, section 22 of the act provides for cost recovery by court order, but this must follow a final determination of court proceedings, which can take years.

Section 45(2) of the act currently provides a general head of power for a person to recover cost of functions performed under the act, irrespective of whether the matter related to court proceedings. However, there was some doubt that the section applies to the Crown. The reason for this is section 41 of the Acts Interpretation Act 1931 which excludes the Crown from references in legislation to 'a person'. The act amendment will remove all doubt that the Crown can recover animal care and treatment costs.

Recent animal welfare investigations by NRE Tas have revealed difficulties where the offences have occurred in Tasmania, but parties or evidence involved in the offence are in another state. Investigation of such offences requires legislative functions to be performed outside of Tasmania, or extraterritorially. However, in the absence of an expressed or implied intent for legislation to have extraterritorial operation, its provisions can only operate within state borders.

Accordingly, it is proposed to amend section 26, which enables officers to require persons to provide information, to ensure that it can have extraterritorial operation. The amended section expressly empowers officers to obtain records, documents and other information from persons who are outside Tasmania. This will ensure animal welfare compliance investigations are not prevented or impeded by key witnesses and evidence simply leaving Tasmania.

The last amendments I will outline relate to animal research. In the draft bill released for public consultation, it was proposed to amend the act in three respects.

Firstly, an amendment was proposed to allow an animal ethics committee to approve animal research that involves baiting and shooting activities that would otherwise breach section 10 of the act, and the use of animals to train other animals in breach of section 11. NRE Tasmania received 19 submissions opposing this amendment. Submitters argued it was difficult to conceive of situations where activities such as live animal baiting or shooting of captive animals would be acceptable research activities. After considering the submissions, it was decided not to proceed with this amendment.

Secondly, the bill will enable authorised disease surveillance and monitoring programs using accepted methodologies to be added to the current exemptions for animal research licensing requirements. The current exemptions are observational studies, normal animal management operations and veterinary treatment administered for the welfare of the animal. An example of new, exempt activity would be the taking of blood samples for disease status determination.

Thirdly, the bill will make it an offence to threaten, intimidate, or abuse an inspector of animal research appointed under section 36 of the act, as has always been the situation for officers appointed under section 13.

In conclusion, this bill will deliver another round of improvements to ensure Tasmania retains an animal welfare system that reflects contemporary community standards, promotes humane animal management practices and, ultimately, delivers better protections to animals from cruelty in this state.

I commend the bill to the House.

[7.42 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I rise to offer my thoughts on the Animal Welfare Amendment Bill 2022 and I congratulate the advisory committee and those responsible who worked on this bill for bringing this to the table. I am certain that animal welfare is something that unites us all, across all parts of our community and on all sides of politics. The only differences might be to what degree and how we might best seek to protect the wellbeing of animals in our care. This is in the terms of the appropriate legislation as a backstop to best practice and how often this might need to be reviewed to meet our communities' ongoing expectations.

This is especially relevant as we have seen some truly abhorrent individual cases of animal cruelty over recent years. Has this been due to a failure of the legislation at the time, or were there other issues that tested the legal limits of interventions? The frustration has been that many of these have been identified after significant suffering had already occurred and that we have seen the prosecution of these cases drag endlessly through the courts, seemingly caught up in an endless legal process that fails our communities' sense of natural justice. I would like to think some of the proposed changes in this bill can and will allow more timely interventions in such cases and will forestall any delaying tactics as cases are argued in the court of law. Perhaps it will also act as a real deterrent to those who might think that they can get away with such abuses. I congratulate the authors of this bill.

What is especially frustrating is that the overwhelming majority of our livestock farmers, animal owners, trainers, pet owners and wildlife managers have a genuine sense of empathy, with true husbandry skills and the proper management of animals in their care that goes above and beyond any minimal legal requirements. They want their animals to truly flourish, and know that thriving animals can and do lead to peak productivity for any livestock-based enterprise or activity.

Given the pressure from various lobby groups and the need to demonstrate best practice, livestock industries have increasingly adopted what could be seen as welfare mission statements to underpin their husbandry best practice. These are commonly known as the five freedoms, and I quote from the Dairy Tas Guide to Tasmanian Dairy Cattle Welfare.

> A commonly accepted assessment of animal welfare is the Five Freedoms which states that farm animals should have:
>
> (1) **Freedom from thirst, hunger, and malnutrition** - by ready access to fresh water and a diet to maintain full health and vigour.
>
> (2) **Freedom from discomfort** - by providing a suitable environment including shelter and a comfortable resting area.
>
> (3) **Freedom from pain, injury and disease** - by prevention or rapid diagnosis and treatment.
>
> (4) **Freedom to express normal behaviour** - by providing sufficient space, proper facilities and company of the animal's own kind.
>
> (5) **Freedom from fear and distress** - by ensuring conditions that avoid mental suffering.

Whilst this is a basic foundation for animal welfare, it has gone further as we are seeing the growth in importance of assurance schemes that codify best practice husbandry and, given the increasing growth in our international export markets, it is an essential and expected point of difference, both in terms of welfare and food safety.

To some, such mission statements, schemes, and legislation might appear to be a case of having to prove a negative. However, given the hostility that can come from the producers in our importing countries, who may not like the idea of foreign imports, it is vital we in Tasmania can demonstrate and be in a position to prove industry best practice to the world.

An example of this are some outspoken comments from last year made by Minette Batters, the President of the UK's National Farmers' Union. This is following an announcement of the then-new free trade deal between Australia and the UK:

> It's also difficult to discern anything in this deal that will allow us to control imports of food produced below the standards legally required of British farmers, for instance on land deforested for cattle production or systems that rely on the transport of live animals in a way that would be illegal here. …
>
> …

> … I hope that MPs will now take a good, hard look at this deal to see if it really does match up to the government's rhetoric to support our farmers' businesses and safeguard our high animal welfare and environmental standards. I fear they will be disappointed.

Fighting talk, indeed, and given the increasing importance of these matters, I have to ask if this bill goes far enough. Should the Animal Welfare Advisory Committee be tasked with looking at the expectations of animal welfare legislation in our overseas markets and comparing them to our established practices? This is to ensure we are completely up to date and beyond criticism.

Whilst cases of extreme and deliberate cruelty in Tasmania are rare, with welfare complaints mostly arising from neglect and/or ignorance, it is extreme cases that reverberate around the world and damage the reputation of our animal-based industries. In all these cases of cruelty, we have seen the owners and keepers of animals failing their most basic responsibility of ensuring the health and wellbeing of animals in their control. I would like to think that this legislation can address this to ensure that those who do cause cruelty can be properly and fairly held to account.

I will now explore how this bill relates to pets, our companion animals. For most of us, either as children or as adults, we have learned to care and love animals that become a vital part of our family. For many of us, a pet offers a true companionship, a significant other that meets a need that is quite different from that of our fellow humans. For those who are elderly or infirm, a companion animal gives a great sense of pleasure and wellbeing and alleviates a sense of loneliness that can come when friends and relatives are not close by.

Sadly, it is sometimes the case that pets are not always kept to an expected standard of animal welfare that is right for their species or circumstances. As per my comments on commercial livestock, I welcome the improved rights of emergency entry, search and rights of position for officers together with the changes in court and conviction protocols that will streamline court proceedings for the benefit of all sides.

However, some animals do come with certain natural behaviours that can be antisocial or even dangerous to people, other pets, wildlife and farm animals. For those who are skilled in training and animal behaviours, there is the chance to modify these in a timely manner that can nip them in the bud before they cause harm. For those who cannot, they are often faced with a hard choice of containing an animal so it cannot harm others or relinquishing it to a charity such as the RSPCA or other animal charity for rehoming or destruction.

For commercial livestock, there are a range of mechanical and electrical devices that are used to restrain and direct the animals to ensure the safety of the people who work with them, or to modify behaviour. On a simple level, one of the simplest are the anti-suckling devices that are fitted to a calf's nose to aid weening whilst keeping calves with their mothers. This can avoid the distress of separation and the inevitable bawling frenzy from both sides.

These anti-suckling devices are complete with a plate or ring of sharp spikes, almost in a style that a punk rocker would be jealous of, where the cow gets a sharp jab every time the calf attempts to suckle. She either moves away or kicks at the calf. Some calves do learn to flip it up and out of the way, or go inside for their milky treat. Larger versions are sometimes used for mature dairy cows that cannot resist a bit of stolen milk from a willing herd mate.

Another is the nose ring. Large examples are sometimes used in place of a calf weaner. In this case, it is a large copper or stainless steel ring fitted through a punched hole in the septum of its nose. This is more commonly seen with bulls as a method of having a sense of control over a large and powerful animal, especially when the handler is of a small stature or where the bull may be distracted by other stock in a show environment.

The fitting of a ring in a mature bull can be a unique adventure of its own, as very few cattle crushers are designed to accommodate the thicker neck and bulk of a fully grown bull that may not be terribly keen on being restrained, let alone having its nose fiddled with or a hole punched through its septum.

These are two examples of a device in common usage that, outwardly, could be seen as wrong and yet fulfil a particular need in managing animal behaviours. There are many other examples, some of which are much more intrusive, that could be challenged on a similar basis. The RSPCA, in articles on its website, does appear to find itself conflicted in the use of these two devices as it recognises the given benefits, both in welfare and outcomes, while expressing discomfort with their method and application.

This brings me to one of the unique elements of this bill - the move to ban the use of pronged collars, as defined, across all species. This element of the bill seems to have little connection with its other elements and outliers. Like many of us, I was under the impression that such collars were designed to cause pain as part of their use. If we look at the Australian Border Force's website, it offers this definition that serves to reinforce this view:

> The importation of dog collars with protrusions designed to puncture or bruise an animal's skin is prohibited …

This suggests a collar with sharpened spikes. Not many of them will cause the described injuries. Petra Oppermann, of the Sprenger Company in Germany, which designs and manufactures what it describes as 'behaviour modification' collars, states:

> The Herm Sprenger Metallwarenfabrik GmbH & Co. KG hereby confirms that the design of the behavior modification collar was made not to puncture or bruise the skin of a dog.
>
> Great lengths have been adhered to so as to prevent this occurrence at all, such as angled links and rounded ends.

It seems to suggest that the ABF has quite rightly banned the importation of collars that would be described as instruments of torture. Yet there seems to be no defined specification of a collar with a humane design that will not puncture or bruise an animal's skin that is not subject to a ban; either with the ABF or from this proposed legislation. I have to ask if the Government has considered this point in its deliberations.

As a lifelong dog owner, I welcome the opportunity to learn more about the use of such collars to ensure that any risk to the wellbeing of our canine companions is under control, with sufficient safeguards in place.

I take this opportunity to thank Steve Courtney, the president of the Professional Dog Trainers of Australia body, Ben Barnes, owner of Huon Valley Dog Training, and Jan Davis,

the CEO of RSPCA (Tasmania) for their briefings and correspondence with us. They have all expanded my knowledge of the issues at play.

Steve and Ben approached me with questions about the transparency of the consultation process. Their queries seemed to suggest that their submissions and input into the review, as a national body and expertise as professional dog trainers, was completely sidelined. This was also in the absence of input from other dog-training professionals.

Adding to this was an almost palpable sense of frustration that this proposed change in policy may have advanced purely on anecdote, hearsay and subjective opinion. The fact that it was only last week, after we approached the body with the submissions, that the fuller list of submissions has been made available on the review's website has only added to their disquiet.

I welcome an understanding from the Government for their reasons for withholding these submissions until the bill had passed through the other place. Therefore, members in the other place did not have access to the Professional Dog Trainers of Australia body's submission, nor to other members, Ben's submission, that clearly stated the reason for those collars. I am sure we can all reflect on the concerns they have shared with us.

I highlight some excerpts at this point:

> Together with their pragmatic suggestions of a way forward, Steve Courtney's letter to us all in recent weeks, there is also a percentage of dogs that, for one reason or another, cannot be effectively trained or controlled using reward training. These dogs, without the appropriate corrective training protocols, become antisocial and a liability to society at large. With the appropriate training tools, these types of behaviours can be effectively modified or rectified, producing a more socially competent and a manageable dog.

Minister, because you were involved in the other place this morning in question time, if we go back to that video where Steve was trying to feed the dog treats of food, it clearly showed that if the gate had not had been there, the dog would have bitten him and savaged his arm. Three weeks later, they showed the dog outside being managed, being controlled, because of what had happened. So, in that example alone, they would contend that feeding a dog positive reinforcement through titbits and Schmackos or whatever would not allow that dog to change its behaviour.

In the absence of the requisite protocols and procedures involving conscientious application of some aversive incentives when required, these dogs become progressively more unmanageable and, unfortunately, often degenerate into dangerous dogs or completely unmanageable dogs, resulting in the inevitable dog aggression problems our members deal with on a consistent basis.

Further, when people are not able to have access to the right types of training - including in some cases training tools such as the pronged collar - they regularly end up giving up their behaviour modification strategies and relinquishing the dog, or euthanising the dog.

He also notes:

> The PDTA understands that the dog training industry is unregulated. There are, however, a number of national accreditations for dog trainers recognised by the Australian Government.
>
> The PDTA propose, as outlined in their submission that people did not get to read, that we develop and provide a course to specifically accredit professional dog trainers in the use of pronged collars. These accredited professionals can then teach their few clients in need of this tool to use it correctly and be monitored under professional guidance.

Forgive me if my numbers are incorrect here, but I did read the annual report of the Australian RSPCA, and from memory, in 2020-2021 there were 19 cases in Tasmania where dogs were euthanised. Of those, 13 were for medical issues, and six for behaviour problems. That is about 30 per cent.

If you look at the Victorian regulation, it was something like 364 cases of dogs being euthanised - and 196 of those were for behavioural problems. Which means 60 per cent of those dogs were euthanised because of behavioural problems.

If you look at those figures, you might think if they had not had banned pronged collars, perhaps some of those 196 dogs would not have been euthanised, because they may have been able to be properly re-schooled and re-managed so they could be handled correctly.

That was one thing that jumped out at me when I saw those statistics.

Ben Barnes, as a Tasmanian professional dog trainer and member of the PDTA, also wrote to us with his thoughts. I will share some of them with you.

As Ben does that, when I watched the video this morning, those dogs that had pronged collars on did not look as though they were hurting, were not loved, were not cared for, were not enjoying the environment they were in - particularly the one with the chickens. I have Westies, so you can well imagine if I put them anywhere near a chicken. However, the person clearly showed on that video that by using the correct approach, that dog was no longer interested in chasing those chickens.

If you think about people who take their dogs for a walk, and something darts across in front of them or distracts them, or a kid goes past on a bike, those sorts of things, it is at that time that those pronged collars might be of an advantage and stop a serious accident.

Ben said:

> We asked to speak with the Animal Welfare Advisory Committee as far back as 5 August 2021, when they were first discussing the potential ban of the pronged collars. As trainers who successfully use these collars to modify a dog's behaviour, we asked to present to the AWAC to show the results that we get with these collars and discuss how and why we use them.
>
> We were told we would be given the opportunity to submit our case to AWAC before the amendments were put to the minister. However, we were never contacted and have been ignored throughout the entire process.

No wonder they were annoyed.

He went on to state:

> We encourage sensible and fair regulation of the collars that is as minimally intrusive to Tasmanian dog owners. However, we have zero faith that this could be done ethically and fairly. I would like to note that Tasmania has laws already against animal cruelty that already cover any injury that was caused to an animal from using any collar - harness or tool.
>
> If regulation is required, we would recommend that they be as broad as possible to allow for as much interpretation of the bill as possible.
>
> We would suggest that if collars were regulated that the following conditions were in place:
>
> (1) An owner must seek the use of these collars through a professional dog trainer;
>
> (2) Professional dog trainers defined as 'anyone who has at least two years' experience of making the majority of their income in changing dog behavior; and
>
> (3) The collar must be used in accordance with the dog trainer's training plan which outlines the proper and correct use and fitment of the collar and ensure that the misuse of the collar is avoided and that the welfare of the dog is not diminished through the use of the collar.

I have to admit I was a little bit taken aback by one of the comments this morning in the briefing saying that this legislation does not satisfy everybody. That is just part of the legislation. I thought that was not a very good comment. Surely in this place we can provide amendments and a way forward so that those people doing the right thing, in the right way to help manage behaviours, can continue to do that and not be treated the same as somebody who illegally uses it.

Whilst we are focused on the pronged collar I can well imagine the distress it might cause some dogs when you see them on a choker chain - which is not being handled in this - walking down the street. A staffy dog, perhaps, with a young person behind them holding them, or an older person trying to hold it, with a choker. I am not sure whether that is any worse than what we are doing here but we tend to be picking on something that is a behaviour management control tool.

It appears that there is so much to be learnt from their correspondence and briefings and I hope the debate allows us time to reflect on these points. In this instance, it seems to have been a failure of due process and a determination made in haste in the absence of an alternative view. I fully appreciate the Animal Welfare Advisory Committee. Their goal is that dogs, animals or whatever, do not experience any discomfort. I suppose that is one of their goals. Therefore, low hanging fruit would be a pronged collar because it looks bad. If it is used correctly it is not. Yet they have avoided some of the other issues that are happening now in

our farming community which have equally the same sort of behaviour management issues with them.

There is a suggestion of pragmatic safeguards made by the exponents of these collars that could have been explored in a way that may have satisfied any concerns in their use and in the training of those who may wish them.

I also ask, what, if any, transitional arrangements does the Government have for dog owners who have come to rely on the use of a pronged collar to control their dog? Will they be allowed a period of transition or adjustment if alternative methods are unsuccessful? Can they continue with the pronged collar as an established user or will they have to relinquish their animal or rehome it? I am thinking of a companion animal that might be with somebody who may be quite frail; they may have a disability; the dog may be stronger; the little lady in the wheelchair taking the German Shepherd for a walk has that control because of that pronged collar.

On the day of royal assent when this bill comes into place, does that person have to give up their dog because they are worried that without the pronged collar they will not be able to control that animal? Therefore, if they take that animal for a walk down the street and that animal attacks somebody else because they then do not have control over it, what do they have to do? They either have to get rid of the animal because they are frightened of it. There goes their companion. We have not allowed any time for a transition in this so I am concerned that at that time, RSPCA get ready because you will have quite a few dog owners having to get rid of their animal. That is okay, they can be at home without their pet, without that friend, without that companion that they may have had for many years.

What happens there? What happens in that situation?

Perhaps in this instance, and the existing provisions of the act already in place in section 8 and the additional new clause in this bill to streamline any legal actions, the prosecution of any misuse of such a collar would be a more straightforward process to deliver. The fact that apparently there have been no such cases to date perhaps suggests that there are no issues that warrant legal action.

There is nothing nicer than a well-behaved dog that is full of energy. Nothing worse than an out-of-control dog, with its distraught owner failing to gain control of a distressing situation. We have heard far too many cases of dogs being attacked by other dogs in public places and owners being mauled trying to protect their own dogs from attack and tragic examples of dogs that have turned on their family members and owners and the loss of life.

It does bring into focus the tragedy that out-of-control dogs can bring to a family. Whilst I understand that dogs can be our closest companions, they can also be our worst nightmare. Thinking pragmatically, with suggested safeguards in the use of behaviour management collars, with regulations on training and suitable professional supervision, we would be better placed with the provisions of the Dog Control Act.

Should we put this clause aside for now and put it up for wider consideration as a future amendment to that act, where it can be explored in a much wider context? Within that act, there are sections for 'Dog under effective control'. That describes how a person must be able to control and restrain the dog.

Section 11, 'Collars'. That speaks to the requirements to have one but nothing of the specification or design or on the use of harness. Section 19, 'Dogs attacking persons or animals' describes an extensive variety of distressing scenarios and legal penalties caused by out-of-control dogs.

There are other sections that describe dangerous dogs and management policies that would also bear fresh scrutiny. Thinking more widely, there would also be the opportunity to examine how the amendments to streamline welfare prosecutions in this bill could be equally applied as beneficial amendments to the Dog Control Act. It seems to me to make sense that we are missing the opportunity here to put this dog section under the Dog Control Act.

We might also consider how strong-willed and dangerous dogs are to be assessed and best placed with suitable owners. The better enforcement of training safeguards so that members of our community and their own dogs are not frightened or attacked by out-of-control dogs that are not properly trained or restrained and any other matters that may need improvement.

In my own electorate, we have an increasing instance of out-of-control dogs. For a responsible dog owner that might be older or infirm, such an experience can be truly terrifying. I would like to think that in light of this bill, a suitable review of the Dog Control Act could yield a significant improvement in dog management and behaviour for the benefit of healthy and happy dogs and their owners too.

I await with keen interest the thoughts of my fellow members and will listen to their presentations and perhaps think of some amendments that may arise if or when we reach the Committee stage. I have some amendments. However, I want to hear from everybody else before I send out those amendments because there are some other things there that I might be able to add to it that I will be proposing and getting those to people as soon as possible.

Whilst I am fully supportive of this bill and many of the amendments that have been contained in the bill - and once again I congratulate the advisory committee and also the Government on presenting this legislation - I think the pronged collar one, we do not have that right. I say that because when I listened to the debate downstairs and I heard the emotive words being used and yet, there have been no dogs in this state in recent years that I am aware of, nor could the RSPCA say there have been any owners who have been charged with cruelty because of the use of pronged collars.

The one photo we were shown today, with the puncture marks, is because some of those pronged collars were around that had the teeth-like, the sharpened spikes, that are not able to be used. The one that Ben showed us, with the curved spike, with the point going - not the spike actually, the curved round thing going back in, forces the dog for a few moments to put its mind back into intention. It is an animal management tool and I hate to add that if we pass this section regarding pronged collars, we are going to have more dogs euthanased because of behaviour management difficulties. That seems to be the case in Victoria where their percentage is up around 60 per cent and ours is about 30 per cent. Whilst it is politically popular downstairs to say, 'Yes, we must get rid of these things', I do not believe that enough of the members downstairs had a true understanding. I was like them three or four weeks ago, and I have watched a number of videos to see if it was right. Those dogs running around this morning using those collars on their neck all the time were not unhappy dogs. They were active, they were having a good time. There was no pain associated with that. There was a

slight pull on the neck - get your dog, get your mind back on task and stay away from the chickens.

Mr President, I consider there is room here for improvement. I would not like to see those professional dog trainers taken out of the equation, just because we think it is the right thing to do because it is not a good look having a dog with a pronged collar on - even though it could be very happy, very well managed and used in lots of situations where it could be an active companion for an adult of any size, shape or a kid of any size, shape regardless of their unique abilities.

I hope members think carefully about what we are doing here. I must admit, when it came up in 2013, it was passed downstairs and my recollection is that the pronged collars was not passed in this place.

Ms Rattray - That is correct.

Mr GAFFNEY - I want to put that back on the record.

Ms Forrest - It should have been in the Animal Welfare Act, that was the argument put.

Mr GAFFNEY - Yes; and it should not be.

[8.12 p.m.]

Ms FORREST (Murchison) - I commend the Government on continuing to broadly consider the welfare of animals. Animals are voiceless. Whilst many of them are able to communicate in many ways, including chooks - and I love our chooks; they are quite mad but I do love them - they are vulnerable to the actions of humans and have limited capacity to stand up for themselves.

It is incumbent on us, as humans, but also it is incumbent on the Government to ensure that where strengthening of the legislation can occur, it should occur, to ensure that animals are protected as much as they can be, in light of the role that they play in our society.

I will come to the pronged collars, because that is a big matter in the minds of many related to this bill. During the briefing I was particularly interested to understand more about the presumption of control, custody or possession of an animal and who is in charge of the care of that animal. This can happen in farming operations where you have a corporate farmer who is probably not even on the land. The owner of the farm or the land may have employed people to provide care for the animals - whether they be dairy cows, beef cows, sheep, and so on - and they can starve that particular worker of funds that are needed to adequately look after the animals. Where does the responsibility lie there? Who actually owns the animals? Who has the care of the animals?

In her summing up, I want the minister to further clarify this area. This is a bit like that chain of responsibility approach, in section 3A(2) of the principal act. It does make it clear that more than one person can be responsible here, and that you can potentially charge both if there is evidence that not only the owner of the property and thus the owner of the stock overall was negligent in not providing adequate resources for the worker. Then the opposite occurs where the owner of the farm, the stock, or whatever, did give adequate money but the person

looking after the animals treated them cruelly, and said, 'Oh, they are not mine, they belong to that bloke over there who owns the property and owns the stock, I am just doing the job'.

It is very important that these matters are clear, as much as anything can be in these circumstances. The reverse onus of proof is something we should do with great caution. There should always be a presumption of innocence; but where that reverse onus of proof comes on, it is incumbent - as I understand it from the second reading speech and the briefing - that the person has to prove they are actually not the person in charge. I understand why that might be the case if someone dumps an animal and that type of circumstance, and it might be somewhat easy to say, 'Well, that's not my animal, nothing to do with me' and it can make it very difficult to press charges. I want the minister to address her mind a little bit more to that in her reply.

There was a lot of information provided in the briefings, and I thank the member for Mersey and the Leader, and the minister, for turning up for a briefing to give us some information about the bill and the intent - particularly in relation to the use of pronged collars. I will take a bit of time to look at this matter. In fairness to all those who have spoken to us, we need to understand, if we are to support this, why we should do so; or if we are not or to provide other mechanisms, why we should not do so; or why we should perhaps consider amending it to enable certain uses.

Jan Davis and the RSPCA said that dog trainers are not the target of this legislation. I am pretty sure it was her who said that. That is true, it is not dog trainers. The purpose of the legislation is to ensure that humane practices are approved for use in training of animals, and particularly dogs, in this case. We understand from the briefing today that you could use a pronged collar on another animal. I assume you could get a big one and put it around a cow's neck, if you wanted to; you could potentially put it around a cat's neck, although it could probably slip it off pretty quickly.

I did go to the literature review that was done. It is titled *The welfare consequences of the use of aversive training devices in dogs: a review of the current scientific literature,* and this was prepared for the Tasmanian Animal Welfare Advisory Committee by Dr Jane Dunnett, University of Tasmania. I will to read a couple of sections out of this, mainly round the executive summary. To make it clear what this document is:

> The purpose of this document is to review the scientific literature regarding the welfare consequences of using aversive training devices on dogs, specifically electronic collars, e-collars, and pronged collars. In order to achieve this, articles examining the effects of aversive training methods in general, as well as those examining the effects of specific aversive devices are reviewed alongside their relevant published articles, such as editorials and position statements.

They were not actually going out and doing the work; they were reviewing the literature that currently exists.

> This review found there is clear, overarching scientific consensus that the use of aversive training devices - in particular e-collars and pronged collars - leads to distinct, undesirable, unintended consequences, namely short-term pain and distress and longer lasting adverse effects on dog behavior and mood. Further, a similar clear consensus that the use of these devices

> increased the likelihood of dog aggression towards both humans and other dogs. This, in turn, leads to early euthanasia and relinquishment of dogs.

That is a little bit contrary to what we heard in the briefing from the dog trainers. I understand what a literature review is, and I assume other members do too - how it collates the currently available information in research that has been done to date. I absolutely accept that the use of pronged collars will modify a dog's behaviour; otherwise, why would you use it at all?

It can, but the scientific evidence suggests that is not necessarily the best way to do it. It goes on, I am not quoting every word from it:

> There is no scientific justification for the use of these devices. The evidence shows that while they may be effective in the short-term in some instances, they are no more so than humane reward-based methods. Indeed, in some cases, adversive methods and devices have shown to be less effective than alternative methods and obedience overall is better in dogs trained without punishment.
>
> Further, adversive devices and methods are effective only in suppressing certain behaviours that do not address the underlying issues leading to those behaviours or teach a suitable alternative behaviour and as such, their usefulness is limited.

We saw videos and we saw a very aggressive dog. We can probably imagine why that dog was in that shape, he had most likely been abused and poorly treated and what a terrible thing to do to an animal like that. Sadly, we do see that. Animals and dogs abused to the point they are very angry animals. They are predators by nature, but they will bite anything that will come within their reach. I can understand why a dog might get to that point if it has been severely maltreated. The video that was shown that the member for Mersey referred to, where the dog was very angry in a cage and the dog trainer was putting his closed fist against the cage, noting that there was food down below. In my mind, that was not food being used as a reward, that was food trying to get the dog to eat, but it was not interested in food, it was more interested in having a fight because such was the state of that dog.

One can only imagine what led that dog to be there, in that state, and yes, we saw subsequent footage of the dog being able to be outside of the cage and much more social in their behaviour. I do not deny that at all and the comment that there are some dogs that simply will not be retrained without the use of pronged collars. If the dog needs to be out and can only be out safely with a pronged collar because of the way it has been handled in the past or something, then that is still a dangerous dog.

Because if you need a pronged collar to control them, that tells me that the dog, unrestrained in that way, could cause an injury to another person, particularly a vulnerable person, but anybody. I am not particularly vulnerable, but I certainly had a nasty dog bite from a German Shepherd that put me in hospital for the rest of the day.

Mr Willie - It is a hazard doorknocking.

Ms FORREST - I was out doorknocking. Normally I do not go into yards with German Shepherds. I had not done that before, I certainly will not do it again, but this was an open yard, no gate, no sign of a dog, no dog bowl, nothing. The dog must have been behind the car in the carport and when I went over, and the door of the house was open, I rang the doorbell. As I am standing there waiting with a short skirt on because it was a hot day I felt this thing brush against my leg.

As I walked I looked down and thought, 'Oh my goodness, it is a very large dog' and, you cannot really run at that point, can you? No, so you stay there and hope and I was comforted by the fact the internal door was open so someone was probably home. That person came to the door and I said 'Hi, my name is Ruth Forrest, I'm out introducing myself to the people I have taken over from the member for Montgomery in the last redistribution of the boundary.' Then I said, 'I am just here with your dog, you might like to take your dog inside!'

They said 'Oh no, he's fine, he's never bitten anybody.' I said 'Right, well it would still be nice if you took him in.' 'Oh he is fine, he is harmless.' As I went to hand in the flyer that was in my hand with my contact details on it, that is when he latched on - severe deep puncture wounds on the top and bottom of my arm. I ended up in the emergency department for the rest of the day, requesting lots of drugs - not the same drugs that you had, Mr President, when you had your episode here but they were nowhere near as effective as those ones, despite my request. Despite all the care I took not to put myself in that situation - I do not think the dog had any collar on it; I was pretty much in shock because it hurt a lot.

I was grateful he bit and released me. He did not hang on - that was the saving grace. It could have been a lot worse if he had hung but he bit and released.

Sorry, I got distracted by that.

The point I was making is that even for an older person - we talked about older people; people with a disability taking their dog out and having a pronged collar as a method of controlling that dog more easily. One would expect if that is the case, if it still requires that to be controlled easily by the person in charge of it, it is not a suitable arrangement.

I think of a frail, older person who has a large dog that needs that sort of measure of control. If for whatever reason the dog gets completely spooked - something jumps out in front of it or runs across in front of it and distracts it - I do not believe that even with a pronged collar an older frail person could hold that dog up. They would probably end up on the ground themselves and probably fracture their neck or femur and be in hospital themselves as an older person.

I wanted to make those points. I listened to both sides of this and I would be very interested to hear what other people think.

To conclude in the executive summary here, there are two more points I will read. (tbc)

> The demonstrated inability of even experienced trainers to time the delivery of the stimuli accurately and consistently increases the risk that dogs will experience severe and persistent stress when trained with these devices.

As there is no pressured control on it - it is just how hard you pull and if you pull gently and the dog lurches forward then, obviously, that could be a much more serious impact on the dog.

In conclusion, it says:

> There is no credible evidence to justify the use of aversive training devices, in particular. E-collars and pronged collars. On the contrary, substantial evidence exists to demonstrate that these devices can cause both short and long-term harm to dogs.
>
> Not one of the studies reviewed supports their use. Humane training alternatives exist which are effective, if not more so.

This is not me saying this, but a review of the literature currently available. I am going briefly to the body of that report. If anyone wants to have a look at this I am happy to hand it around, if you have not seen it already.

Under the scientific evidence, and there is a whole heap here but I will read the first bit:

> To date, two literature reviews on the effects of aversive training methods in dogs have been published. In the first, the author concluded that aversive methods jeapordise both the physical and mental health of dogs through undesirable and unintended consequences and in addition, were no more effective than positive reinforcement-based training.
>
> The author recommended those working with or handling dogs should avoid using positive punishment and negative reinforcement wherever possible.

The further discussions I have had with other people who train dogs is if you train them to respond to painful stimuli and do the right thing as a result of a painful stimulus - which is what this is - you are getting them to respond in the way you want them to because of pain, not because it is something they feel good about. Some dogs like a good tummy tickle; others will not. Some like that physical attention from kids; some do not, and if you reward them with what they like, rather than use pain as a disincentive, that is what this is saying, in the way I read it.

The member for Mersey sent a graphic that talked about the number of dogs euthanased in 2020-21. The reason I had a close look at it was because it was for 2020-21, and there were 66.5 per cent of dogs euthanased in that period for behavioural reasons. There were 26.4 per cent for medical reasons. The total dogs euthanased were 2502. There is no indication where this data came from. Is it national data?

Mr Gaffney - Yes, that is national data. In the next one that came to you it has a breakdown of state by state, and the national data.

Ms FORREST - I am sorry I did not see that bit.

Mr Gaffney - There is another one that came over -

Ms FORREST - Anyway, I have the Tasmanian figures. Let us look at what happens in Tasmania.

Mr Gaffney - In that same year?

Ms FORREST - There are two years from 2020 to 2021. Tasmania's figures are lower. Over the two years, the period covered by that graph - that pie chart - and the most recent year, 32 dogs were euthanased out of 217 over two years. These are the RSPCA figures. We do need to remember that the RSPCA get the ones that no-one else wants. The owners have given up on them, they have already bitten somebody or done something, so sadly, they are the kennel of last resort.

No dog is euthanased by the RSPCA without a vet and independent behaviour assessments, and 14 of the 32 euthanased were dogs that were seized by the inspectors that had been seriously maltreated. I can only imagine how difficult it is to try to rehabilitate a dog that has been seriously mistreated. I do not know how that sort of dog would ever trust a human again when you see some of the things that happen to them.

Over that period, when we look at the euthanasia figures, 32 were euthanased, 26 of those were dogs that were unhealthy and untreatable; that included owner or guardian-requested euthanasia. Sometimes the owners have requested the RSPCA to facilitate that because they thought the animal could not be helped any other way.

Euthanasia is usually a method of last resort, and there is euthanasia for illness if there are health problems that cannot be treated - like cancers - where the dogs are distressed and in a lot of pain.

I have a question for the minister. It is something that was raised about the training of dogs such as police dogs and guard dogs. I understand, but if you can confirm this: all police dogs in Tasmania - and I know it is not your portfolio, but you may be able to inform me - are trained in Victoria. That is what I understand. If they are, these are police dogs that are trained to be very responsive to the commands of their operator. In Tasmania, police dogs are not managed with pronged collars and Victoria does not train them with pronged collars as they have been outlawed for about 20 years, or whatever it is.

As I understand it, there are not a lot of trained assistance dogs. A lot of people have assistance dogs but they are not trained assistance dogs. The ones that are trained are for visually impaired people and some others. They are trained for the purpose and with positive reinforcement as I understand, they are not trained with pronged collars either.

There is a concern that was raised with me that fear and discomfort that a pronged collar causes in its use as a training tool ameliorates the short-term problem but it can become a longer term issue or create longer term behaviour issues, which is what that literature review was saying.

Going back to the number of prosecutions that was referred to, Jan Davis from the RSPCA talked about the high bar, I guess, for prosecution of cases. She even showed that photo of a dog that had an injury from a pronged collar. You could see it much more obviously because the dog had been shaved around its neck, so you could see the harm. It is a bit like a pressure wound. If they have their collars on all the time, you will get a pressure wound. It is

like lying in a bed; if you lie in the bed too long, you will get a pressure sore, same thing. Constant pressure on a person or animal skin, whether it is a dog, a cow, we have seen them with nasty pressure wounds.

She said that they had 2000-plus calls to review animal welfare matters. They only moved to prosecution of about 12. The dog that was in that picture, with the damage to the dog's neck, was not one they tried to prosecute because the bar was too high, she said, and the prosecutor would not go near it. There was not enough evidence. It was not bad enough to warrant prosecution. One does wonder how bad it has to be before you get to prosecution, when you actually have open wounds that you could see there, whether that is a pronged collar, whether it is an animal being hit with a stick. Surely, we do not have to get to that point before a charge can be laid but that is what Jan Davis was telling me. It has to be egregious harm before it even gets anywhere near the court and a charge being laid.

We know that the pronged collars have been banned in being imported into the country. As one of the departmental officers said, there is a reason for that. It is not illegal to make them in the state or to sell them or make them in the country and sell them but you cannot import them. So, obviously they are coming into the country or they are being used in the state, so they are either being made in the state or country and then shifted around the country. That is a business for somebody. That business would cease if people are making them and selling them in Tasmania, that business would cease. It does not mean they cannot make them. They could probably sell them to another state where it is not banned but they would not be able to sell them in Tasmania.

As the Government has said, we are not in the business of putting people out of business but anyway, that is a judgment call on that one. It is important to note that perhaps people are making money out of this. Is that a driving factor in some people's views? I am not sure.

I also note being here for some time now, that when we debated the Dog Control Act there were moves to deal with the pronged collars at that previous time. The evidence clearly at the time was that it was a matter for the Animal Welfare Act, even though there was a move and a desire to have it included at the time in the Dog Control Act. Hearing that they can use pronged collars on other animals besides dogs, then it probably is much more appropriate to have it in the Animal Welfare Act anyway on that point alone. This is the right place to have the debate; whether it is supported or not is another matter. However, in my view, this is the right place.

I support the overall intention of the bill. I am reasonably well convinced I support it as it is. I will listen to other members' contributions but the other provisions, the ones I have already mentioned and the other provisions, are all strengthening of the legislation in protecting the welfare of animals and that is a positive thing.

[8.39 p.m.]

Ms ARMITAGE (Launceston) - This amendment bill does represent a move towards better animal welfare legislation. Like others, I appreciated the briefings today too and it was interesting. I am not going to go into the pronged collars particularly yet but it was interesting in the briefings because they were mainly about that. Hearing from the trainers and from young Ben, I thought he was particularly good. My understanding at the time, I did not realise that these collars were available for other people in the community apart from trainers. I assumed

that trainers were the only ones that used them and they only used them when they were training the dog and they did not stay on their necks, but I will get back to those shortly.

Going to some of the other areas of the bill. I believe it does strengthen the bill. Presumption of control, custody, that the act will be amended to enable an allegation and prosecution complaint for the specified person in control. I note that currently a person in charge of an animal can simply deny ownership, which make investigations and prosecutions obviously difficult and somewhat expensive in many cases.

Power to take possession of animals: that is important that the act is amended to enable an officer to take possession of an animal if they believe that the animal requires medical attention, that it suffering or its life is in danger and a few other reasons here. It is important that they can actually take control. How often do we hear that they are told of a problem with an animal but they do not have the ability to seize and take the animal?

The emergency entry power. That is important, particularly with floods in other areas, if someone might not be there, that they do have the power to enter premises, including dwellings in an emergency, such as fire or flood, and provide immediate assistance to animals in urgent need. I am sure everyone here would agree, if that is the case, you should be able to go in and protect those animals.

To reduce the time of carcases for euthanased animals. To think that they have to keep them for seven days, so 48 hours, two days is still a substantial time and obviously a good move.

Amending the act to clarify the meaning of disposal to include euthanasia, sale or rehoming of animals.

The cost for pre-trial: the act amended to provide for early pre-trial cost recovery. I am quite sure that some of them have been held for some period of time, and as we all know, animals are not cheap to keep. It is an important part of the bill, the amendment that they can actually recover some costs.

Getting on to the part from the RSPCA, and Jan Davis from the RSPCA has mentioned that she would be happy for me to read her email.

> The Draft Animal Welfare Act Amendment is currently before the Parliament. The amendments proposed in this bill ensure that Tasmania is moving to a best practice, contemporary and effective regulatory system that protects and promotes the welfare of animals; prevents and deters cruelty to animals and responds appropriately to animal welfare abuses.
>
> We worked closely with the Government to bring these amendments forward. The Government's commitment to the changes was evident in the wide community consultation process which resulted in some further refinement of the proposed amendments. We urge you to support this bill when it comes before you.
>
> The Tasmanian Animal Welfare Act came into effect in 1993. That is a long time ago, and the world is a very different place 30 years on. Unfortunately,

little attention has been paid to this act since it was introduced. There was an attempt in 2014 to implement some changes but these unfortunately failed in the parliament. As a result, this legislation has not kept pace with changing community attitudes and expectations.

Responses to the proposed changes from the community have been overwhelmingly positive. The only dissent has come from a small number of dog trainers who are opposed to the banning of pronged collars. They believe dogs can only be trained by using these cruel collars. Not all trainers agree. Contemporary practice in training focuses on reward-based methods, rather than this outdated aversive methodology.

Regardless of what preferred training method someone may subscribe to, it is illegal to cause pain and suffering to an animal, and there is no doubt that these collars do that. There is a reason why we no longer hit children. Aversive therapy will no doubt change behaviours but at what cost?

Most of the submissions made to the draft bill, indicate that these changes don't go far enough, and we agree. These amendments are intended to start bringing Tasmania up to the standard of other states where a range of reforms have been ongoing for several years. However, these changes are just the start in making sure that our laws provide Tasmanian animals with the best possible protection.

Over recent years, there have been incremental improvements to animal welfare legislation in other jurisdictions. The Victorian Government has in fact tabled in parliament a major update to their legislation just this month. In some cases, these changes have been amendments as we see here, in others they have involved a clean sheet approach to rewriting legislation. We are firmly committed to the need to work through both approaches in Tasmania. It is important to move our current act towards best practice, however, while we are doing that, we also need to be thinking about what animal welfare legislation might look like in another 30 years. Recognising that animals are sentient is a high priority, as is widening the scope of other legislation to reflect the importance of the relationship people have with their companion animals and insuring better physical and mental wellbeing.

Once these amendments come into effect, RSPCA Tasmania is hoping to see further reforms, and please feel free to contact me.

Jan Davis,
CEO
RSPCA Tasmania.

The other information I received and do not believe the member for Murchison read in, the executive summary from the Tasmanian Animal Welfare Advisory Committee.

The question I have for the Leader and I am not sure whether you can answer it - some of the questions were asked by the member for Murchison too - the more concern I also have is with the pronged collar.

I understand and appreciate the briefings, particularly from young Ben. I thought the video he made was excellent and he explained it well. My understanding at the time was that the pronged collars, with someone like Ben, were simply while they were training that dog, the aversion to do the wrong thing. I did not have an understanding that dog continues to wear that collar and that is where I am a little confused. From what we have heard now and some of the other advice - it might have been the other chap talking about if people are out in the street and they need that dog to behave, then the pronged collar makes them behave. My thought process was they go off to be trained, they are a badly behaved dog, they go off to be trained, the aversion therapy, they are fine, and then they are back as being a good member of society, not that they are still wearing a pronged collar.

Once that pronged collar comes off - the member for Mersey with the example of the little old lady with the dog that she goes out and she pulls it. What happens when she goes home and she takes that collar off? To me, I can understand that with a dog with aversion therapy, but I am not sure the temperament of the dog changes. I understand they are changing their behaviour because of fear of the collar and what is going to happen when the collar is on, but surely there are times when you must remove that collar? You cannot leave the collar on the dog 24-7. When it no longer has the collar on and it knows the collar is not on and the fear is not there, that dog still has that same temperament.

Ms Rattray - You might not have the distraction of the chickens and the other dogs and people it is not used to and perhaps that is why it does not act up at home.

Ms ARMITAGE - You might not, but you really do not know, do you?

Ms Rattray - No. A chicken could get out of the chicken yard.

Ms ARMITAGE - It might not be a chicken, it might be a child and we all know what children can do to dogs. They can make dogs react and most of the time that is not the dog's fault. Sometimes, some of the behaviour that they do, the poor old dogs. I am not sure that you can answer it, minister, about whether the collars are on - whether the collars are on all the time or whether it is only when they are training. I could probably almost accept an amendment that only trainers have them.

Mr Gaffney - In my conversation with Ben, there are some times that within the home environment they are not needed to be on, but if the lady or a young person wants to take the dog for a walk, for the safety of the other people, the border collie might run and they may have the collar on to stop that behavior out on the streets.

Ms ARMITAGE - In that case, that dog has not been retrained then. I would have thought, if you have gone to a trainer and you have been retrained, you should not need that collar again. However, if you need that collar when you go out on that street, then you are not retrained, because you still need the collar.

Mr Gaffney - It is not a danger, it is not hurting it, it is like going horseriding and having a bit on a horse so it does not throw its head.

Ms ARMITAGE - Ask the member for MacIntyre, I put the collar on her arm and she said it hurt.

Ms Rattray - You pulled it tight.

Mr Gaffney - And she does not have a hairy arm.

Ms Forrest - Lucky it was not around her neck then.

Ms ARMITAGE - I am not sure, but if you still have to put that collar on when that dog goes out on the street then, to me, that dog is no different. If it still has to wear a pronged collar when it is going out with a child or anyone, so that it does not do something then, in my view, it has not been retrained. I am little confused there. If I had known more about that, I would have asked more questions then but I was not aware of that.

I notice too that Queensland currently has similar legislation before them. Victoria has banned it.

Ms Rattray - Victoria have had theirs in place since 2008.

Ms ARMITAGE - Quebec has banned; New Zealand has banned; Austria has banned. I also had the question about the police. Some of the advice that came into us said that a lot of police dogs were trained with pronged collars. The other information I could see was that our Tasmanian police dogs were trained in Victoria; so I am a bit confused. I am trying to get some clarity.

Mr Gaffney - Through you, Mr President, it would be a good question to ask the minister. I forgot about New South Wales, Western Australia and South Australia - what are their laws? I know that in England, UK and America there is no ban on pronged collars. Whilst they have chosen Victoria in 2008 and Queensland, I would be interested to know what are the rules in New South Wales, WA and South Australia, and to find out which states have bans on pronged collars.

Ms ARMITAGE - My concern is more that the dog is trained; and my thought was that it did not need a pronged collar again. I was a bit surprised that when it goes home, it still needs that collar. To me, that is not a trained dog. You should be able to put a normal collar on it rather than inflicting pain on it all the time. Why would you put it on to have it trained if it still has to have a collar when it goes home? I am concerned when you take it off, that it does not have that fear.

I am a little confused here and I am assuming the member for Mersey will have an amendment to do with it. I am looking forward to hearing other members, because that is the main issue I have with the bill. At the moment, I am leaning towards supporting the bill as it is and listening to the RSPCA. I appreciated the information received.

I appreciated young Ben coming in. I wish I had more of an understanding, when he was there, that they were wearing collars the whole time, because I did not appreciate that at the time. I am happy to hear other members comments and see which way I lean towards those collars and any amendments.

[8.53 p.m.]

Ms RATTRAY (McIntyre) - Mr President, there is not a lot more to add to this very interesting debate on this important amendment bill. I also would be interested in the question

that the member for Mersey asked, by interjection to the member for Launceston, about the other states. I can see the minister nodding - so, thank you, minister.

Just because Victoria does it and has done since 2008 does not give me any comfort whatsoever. I am not always impressed by what happens in other states and we should be making laws in this state for the people who we represent in this state.

I have a couple of questions before I put my thoughts on the pronged collar. I question the authorised officers and the power to enter premises. I do not disagree that that is not an important aspect of the bill. As has been indicated, if there are floods or fire or whatever, we need to have to be able to do that. The second reading speech talked about the grounds to enable an officer to take possession of any animal if they reasonably believe that any one or more of the following grounds exist and it says; 'an animal welfare offence has been, is being, or is likely to be committed in respect of the animal'. That is something that I will ask through the Committee stage - who determines 'likely to be committed'?

I am interested in who determines that, because as we move onto another part of the bill it amends section 24 of the act, to reduce the time for which carcasses of animals euthanised by officers must be kept from seven days to 48 hours. I assume these are dead animals; or are you only going to keep them for 48 hours and then they will be euthanased or disposed of. What if you cannot find the relevant owner in 48 hours? Some clarification on that particular clause would also be useful. As we have already heard in the debate, we have large properties that have managers in place. The owners of these properties are sometimes companies that are far removed from this state, and do not have any hands-on approach when it comes to management of animals - particularly large numbers of animals.

We have seen that in a number of areas. The far north-west has had some issues. I know there have even been some issues in the far north-east where owners do not live on properties and there are some issues about the welfare of their animals. This is not so much about dogs, but more generally about livestock.

I am interested in a couple of those areas and I will look at those through the Committee stage as well. When I had a look at section 17(1) of the principal act it did not specify the following grounds that exist for an officer to take possession of an animal if they reasonably believe one or any or more of the following grounds exist; and then it goes through a number of dot points there - four to be exact.

In regard to the pronged collar, I have some sympathy for the dog trainers and the work that they do. I was also impressed with Ben Barnes and the way that he went about presenting his case. It was very well articulated by the member for Mersey as well. We have not been made aware of complaints or evidence of cruelty to animals through the use of pronged collars, other than the picture that was provided by Jan Davis, that has been highlighted by the member for Murchison. I thank Jan Davis, CEO of RSPCA, Ben and Steve. Jacqui chimed in there at one stage as well. I was looking around the room thinking 'where's Jacqui?' but she was on the screen.

It appears that Ben and Steve, and perhaps Jacqui, feel their submissions have not been considered. That is disappointing if that is the case, Mr President, because we want to make sure that all views are represented when it comes to bringing legislation to the parliament. The fact that it is with the Animal Welfare Act and not the Dog Control Act - yes, I recall that same

conversation as the member for Murchison in 2013, and we thought that pronged collars and their use was going to go away. Well, it has arrived back on our desks right now.

It is also interesting that Ben gave us that information and I wrote it down that a pronged collar is least likely to harm an animal and then he went on to talk about how it can retrain, particularly, a dog to be - as the member for Launceston said - a better member of our society. Then it was suggested it is a better member of the pack.

That is interesting. I am not a dog owner. When you are away from home, as I am a lot, I would have to have a full-time dog sitter or animal sitter. I do not have one of those; I do not have a dog but plenty of my family have one.

As an interesting aside, my daughter's little sausage dog was picked up on the road outside Bridport last week and arrived at Eaglehawk Neck for a little drive. Somebody was kind enough to pick up the little dog which did not have on his collar and took her home to Eaglehawk Neck but she has been returned. Little Ruby has made the local paper this week. Ruby had quite a long drive, and we can only say thank you to that person. She had been on a very long holiday.

Her family were quite distraught but it was kind of that lady to make sure that she was looked after, even though she took her for a very long trip.

Getting back to what I should be talking about, I have gone completely off script here.

I will be interested to see what amendments the member for Mersey puts forward because from what I am hearing from around the Chamber, there could well be some support for just dog trainers to use the pronged collar for their work if they are a registered dog trainer. They have the knowledge, understanding and skill to use a pronged collar. I am not so supportive of the general public having them if that is the case but if it is a registered dog trainer -

We also heard that Ben trained animals for rescue but then we have had some information that perhaps all our rescue animals are trained in Victoria. That will be interesting when the minister has the opportunity to respond to the member for Murchison's question about that as well.

Animal welfare is an important aspect of our society and too often we hear of serious and significant events where animals are not looked after. I have always been of the view that if you cannot look after or do not have the means to look after an animal then you possibly should not have one. That is certainly my case, I do not have the commitment for an animal.

That is my offering at this point in time. I will continue to listen to what is being put forward and I am particularly interested in the proposed amendments that have been possibly flagged by the member for Mersey in his attempt to represent what is a fair and reasonable request from registered dog trainers in our state. I am particularly interested in whether their submissions were genuinely considered through the compiling of this legislation. I thank members for their time.

[9.04 p.m.]

Mr VALENTINE (Hobart) - It has been very interesting listening to this debate. I thank the minister for providing the opportunity for briefings. Those names have been mentioned

before: Steve Courtney and Ben Barnes and (TBC)Jacqui - I did not get Jacqui's last name - and Jan Davis. Then the officers from the department who covered off on what was being dealt with in this bill.

I need to declare up-front -

Ms Rattray - That you have a dog.

Mr VALENTINE - I did have two dogs and I am a patron of a dog training club. While I say that, I have not had any contact with them over this, so I do not know where they stand in relation to the use or otherwise of training dogs with pronged collars. I want to make sure that that is clear.

Ms Rattray - The member for Launceston has the same affiliation in the north.

Ms Armitage - True. I guess I should declare I am the patron of dog training as well, but I have never seen them use pronged collars at training.

Mr VALENTINE - Either way, I am making it clear that that is the case for me. I did have two dogs, dalmatian-border collie crosses, and they were very special dogs to us. We had great times with those dogs and I award an annual award at the dog training club's awards in their memory.

I found it interesting and as we consider the issues that are before us tonight, your immediate thought might go to what we saw in 2013. The member for Murchison talked about the fact that it was changes to the Dog Control Act and people talked about the pronged collars then. We received information on them and the pronged collars were not quite as gentle as they are today, if you can call them 'gentle'.

Ben made note that there was not one cruelty charge for using pronged collars. My only observation on that might be that if they are not a banned item, then it is unlikely that a charge would refer to the collar. It might refer to animal cruelty. Of all those animal cruelty charges, I do not know what the causes were. If pronged collars are not banned, then you would not expect to see them in the charges.

You can only get so far with food and affection. That was a point that was made. In relation to that, in this fast-emerging digital age there are many things being invented to assist with different circumstances, and I know that electric shock collars exist. As far as I am aware, they are by remote control. If a dog is misbehaving, the owner with the remote control can give it a jab to the neck.

Ms Rattray - What about the barking collar?

Mr VALENTINE - Or citronella collars.

Ms Rattray - Where every time you bark you get it.

Mr VALENTINE - There is one that I have been made aware of and that is a perimeter collar. The dog wears the collar and a wire is buried on the perimeter of the property. If the

dog approaches that perimeter they get a shock to the neck and the dog controls how much shock it gets because it knows if it gets too close, it cannot go there.

That is some sort of a pain that is within the dog's control, as opposed to being controlled by someone else. Either way, it brings our minds around to how we see life at the end of the day. Smacking children is something that - some people still say spare the rod, spoil the child. The old fashioned, 'if you do not give them the smack then they are never going to learn', but we have moved on a fair way from that.

It is a more humane world and some people might say, yes, that is why we have so many different problems with young people, some people going off the rails or whatever but society changes over time. I think to myself, is this a form of control of a dog that is acceptable today when it comes to animal welfare? Just the same as whips and horse racing and how that is changing over time. I tend to bring my mind to those sorts of things and think we would move towards less coercive control.

They mentioned euthanasia being more prevalent without pronged collars. I am not an expert on those statistics and cannot comment too much on that.

Ms Rattray - However, did we not hear there was an increase in euthanasia in Victoria because they do not have pronged collars?

Mr VALENTINE - I do not have the evidence, I am simply saying that was mentioned but I do not have enough evidence to be able to draw any conclusion with regard to euthanasia.

Ms Rattray - The minister might be able to help us with that.

Mr VALENTINE - Well, the minister may. Something that did concern me though was the mention of views not being able to be fully expressed, not approached or not responded to and that the submissions were not made available until later in the piece.

Ms Rattray - After the debate in the other place.

Mr VALENTINE - Yes, and we have to be careful with that. We are here for the community. We are here to listen to all views. We need to be informed when we make decisions, especially decisions that are going to impact on others. There should not be any form of manipulation in that regard and I do not know what the circumstances were or why that could not be achieved prior to the debate in the other House but we should be not doing that. We need to know what the community's opinion is.

I did look at the second reading speech where it says, 'Mr President, this amendment,' and it is in relation to - about rebutting the presumption by producing evidence that shows on balance of probabilities they did not have control or possession of the animal. It is the person who is in control of the animal, that part of the act that deals with that. I was concerned when the second reading speech says:

> This amendment will allow the prosecution to require defendants to disprove an allegation that they had the care or charge of an animal …

I always thought in Australia you are innocent until you are proven guilty, not guilty until you are proven innocent. Now, you might say, well this is not about guilt. This is about proving whether you are in control of the animal or not. Is it the thin edge of the wedge? I do not know. I had concern there and perhaps a little bit more explanation in that regard would not hurt.

Ms Rattray - Certainly through the Committee stage.

Mr VALENTINE - Yes, because it says the words, 'to reverse the onus of proof on that aspect of the case'.

I emphasise it is not intended this amendment will change the standard of proof needed to convict a person of any offence under the act. I am comforted a little bit by that, but I want to know why we have gone the path of turning that around slightly.

The power to enter premises without a warrant would only be used in situations where an emergency exists or where the animals are in actual or imminent danger. I can appreciate the need for that sort of power, as long as they are responsible for gathering up the animals that might escape as a result of their entering the property, if there is a concern there.

Expanding and clarifying the scope of an officer's powers to take possession of animals - quite clearly, in circumstances where they are going out to look at a potential animal cruelty case, they have to know they are protected by the law. I am sure there is a good reason for putting this in the bill, I can agree with that.

About the insertion of a new section 17A, enabling a magistrate to order that an animal be removed from the custody of a person if satisfied that without the order the welfare of the animal is at risk. Quite clearly, that is also a sensible amendment.

The issue of costs of impounding animals or having to care for animals, the government, to date, it seems, has not been able to claim those costs until after the prosecution has happened, and there have been significant costs incurred. The government should be able to claim those costs, if it is possible.

Ms Rattray - If the owner is not found to be liable or guilty, why should they have to cover the costs?

Mr VALENTINE - No, well, I went to that during the briefings and the thing is that the owner who may be found not guilty would have had to have cared for those animals during that time anyway.

Ms Rattray - However, perhaps not at the same expense.

Mr VALENTINE - No, well, there is that, but it is a court that works out the expense, and the minister might clarify that, as to what the costs are that are levied for looking after those animals during a period of time that something is before the court.

Ms Rattray - And how are they arrived at.

Mr VALENTINE - Yes. The issue of carcasses, the bill amends section 24 of the act to reduce the time for which carcasses of animals euthanised by officers must be kept from 7 days to 48 hours. I wonder there whether there is an issue where a carcass in fact may be needed as evidence, in some way, and how that is handled. To give a blanket circumstance here of 48 hours rather than 7 days - if there is a need for evidence, maybe a race horse has been put down, they have claimed that certain things happened to that horse, the authorities need to investigate; 'oh, we can't, the horse has been disposed of.' I want some clarity on that.

I have covered most of those aspects and yes, the pronged collars are the hot topic. It would be fair to say there is a general community sentiment that would tell me that inflicting pain of any sort on an animal is not a great thing, the same as we do not inflict pain on children anymore, so I tend towards not seeing them continue. I want to hear more, but I do not know that I am going to because it seems that no one else was willing to get up. I am going to sit down. I will listen to the rest of the debate. I will listen to the minister's summing up and then we will go through the Committee stage and have another think.

[9.20 p.m.]

Ms LOVELL (Rumney) - Mr President, I will make a brief contribution on this bill, primarily to say that the Labor Party supports this bill and did so in the other place. It has been quite some time since the last amendments to the Animal Welfare Act, so it is good to see some progress in this area. As other members have noted, community expectation has significantly changed in regard to how people think of, consider, and treat animals and expect them to be treated, whether that be pets or service animals, animals that are engaged in the military or police operations, or some form of work, biosecurity, whether that be livestock or wildlife. It is important that, as a parliament and as a state, we keep up with that change in expectation.

I am particularly pleased to see amendments to the act to strengthen emergency entry provisions, and to strengthen powers to take possession of an animal. It is often said that prevention is better than cure. That is no different in this instance, that in those circumstances where there is a reasonable expectation that an animal is going to be mistreated, it is important that people and those who are enforcing our legislation and our laws do not have to wait until that incident has occurred, and they can act on that reasonable suspicion that something is going to occur.

I wanted to briefly comment on the provisions, the amendments to the act to ban the use of pronged collars. I know this is a topic that is probably the most controversial in this bill, or the topic that has attracted the most amount of interest. I appreciated the briefings that we had this morning and have listened to those briefings and understand the impact that this will have on those we heard from.

I will consider any amendments that are brought to the Chamber, if and when they are brought. However, in principle, it is important to say at this stage that Labor supports the banning of the use of pronged collars. That would be the position that we hold consistently in this debate. I look forward to further debate on that and looking at those amendments if they are brought before us.

Mr President, I expect there will be more reforms in this area in the future. This is just the start. As we said, it has been some time and there have probably been significant changes in community expectation that perhaps have not been dealt with yet, but there is opportunity

for further reform down the track. At this point, we support the bill. I look forward to hearing other members' contributions.

[9.23 p.m.]

Ms WEBB (Nelson) - Mr President, I suspect we are nearly at the end of our list. My contribution will be a very short one. I appreciate hearing from many other members with their thoughts on this bill. I particularly appreciate the briefings that we received. I thank the member for Mersey for organising a broader scope of briefing than we might have otherwise had by hearing from some people on that particular matter of the pronged collars in the bill.

I am not going to go through the bill and the various elements it covers other than to say that it is pleasing that it is being updated. It has clearly been some time since it was and there are many stakeholders who are pleased to see the things brought forward with these amendments in this bill.

On the matter of the pronged collars, which is the one we are all turning our minds to the most at the moment considering there may be some amendments to consider, I found it interesting and challenging to think this through. I am still not sure where I am landing on it. I instinctively think similarly to the member for Hobart on what he said on having an inclination to think that the use of pain or the use of force of some kind to manage behaviour is not the right way to go. We have moved away from that, in terms of people and children, and we are also moving that way in terms of animals. I found it very interesting to hear from the trainers who spoke to us directly this morning about how they use those collars. It was quite different from what I had imagined.

The member for Mersey made an important point that you need full information and need to hear from various sides of an issue to be able to give it some proper thought. It is a shame if those in the other place did not have the benefit of that to the same degree because it can then lead to a misrepresentation of the reality of the issue or that matter that is before us.

I find it particularly galling if things like consultation material are not promptly put into the public domain by the Government. There are clear policies the Government has about releasing consultation submissions and consultation summaries. The worst-case scenario should be that those things are not in the public domain prior to a bill being tabled. Of course, that should be it and I believe that is Government policy. So, if this bill was tabled and debated, without consultation material being put into the public domain first, it was contrary to Government policy. The Government failed to meet its policy.

It should be at a much earlier date than that. If you have consulted on something and it is quite some months before a bill is going to come to parliament, there is no reason that that consultation material cannot be put in the public domain.

Then there is the opportunity for other stakeholders to see the other breadth of things that have been put forward. There is the opportunity for us to actually begin to contemplate some of these things well ahead if we wanted to. Bills come into parliament. I see no justification at all for delay. Some departments have a policy to do that, to put the material into the public domain at the earlier opportunity and not wait for the eleventh hour when a bill is about to be tabled or contrary to policy, after a bill has been tabled. The Government could provide an explanation as to why that occurred, if that is what did occur, and confirm whether it was a failure to meet Government policy and perhaps commit to do better next time.

That aside, I will consider amendments as presented. I am not sure whether I have enough information to be able to well assess beyond looking at what expert advice is being provided through the consultation process and to us as we are considering this bill as it comes through and balance and look at the weight of that expert advice, which is what we intend to do as good practice. At the moment, the weight of that expert advice is falling to the side of supporting the ban on pronged collars. We will see where we get to when we contemplate if we get to Committee stage, probably tomorrow.

Thank you to the member for Mersey. Thank you to the Government for the provision of information and to those external stakeholders who have been sending through and providing information for us to consider, it is much appreciated.

[9.28 p.m.]

Ms PALMER (Rosevears - Minister for Primary Industries and Water) - Mr President, I thank all members for their contribution. I will seek advice overnight and sum up tomorrow.

Mr President, I move that the debate be adjourned.

Debate adjourned.

WORKERS REHABILITATION AND COMPENSATION AMENDMENT BILL 2022 (No. 48)

RETAIL LEASES BILL 2022 (No. 30)

First Reading

Bills read the first time.

ADJOURNMENT

[9.31 p.m.]

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

> That at its rising, the Council does adjourn until 11 a.m. on Thursday 10 November 2022.

Motion agreed to.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Before I do the adjournment, Mr President, I remind members of our briefings tomorrow morning starting at 9 o'clock with the Justice and Related Legislation Miscellaneous Amendments Bill followed by the Proclamation under the Nature Conservation Act.

Members, when we start at 9 a.m. if we happen to finish early we will keep rolling through so please be there. Tomorrow we will start our day with the Nature Conservation Act, notice of motion no. 9 then come back to Animal Welfare and hopefully finish the day with the Environmental Management and Pollution Control Act (EMPCA).

Mr President, I move -

That the Council do now adjourn.

The Council adjourned at 9.31 p.m.

Appendix 1

Feasibility study for cam river bridge

Tabled and incorporated into Hansard L. Hiscutt 9. NOV 2022

View this email in your browser

Tasmanian Government

Tasmanian Government Media Release

Jeremy Rockliff, Premier and Liberal Member for Braddon
Michael Ferguson, Deputy Premier and Minister for Infrastructure and Transport
5 November 2022

Second Cam River crossing

The Tasmanian Liberal Government will commence feasibility works on locations for a second crossing of the Cam River following the traffic disruption from flood damage to the existing bridge in October.

The Department of State Growth will be tasked with identifying locations for an alternative crossing in recognition of the strategic importance of the Cam River Bridge to families, communities and industries that depend on it every day.

Premier and Liberal Member for Braddon Jeremy Rockliff said:

"While the replacement Cam River Bridge now under construction will be stronger, higher and wider than the existing Bridge, our Government is committed to ensuring our communities west of Cooee are not inconvenienced in this way ever again.

"That's why we are committed to investigating the feasibility of an alternative crossing, with potential locations to be explored by State Growth."

Deputy Premier and Minister for Infrastructure and Transport Michael Ferguson said:

"The need for improved access over the Cam River was established in the Bass Highway (Cooee to Wynyard) Planning Study of 2019, which resulted in the Tasmanian Liberal Government's commitment to the new bridge under construction.

"The existing 60 year-old bridge is past its useful design life and needs to be demolished, so we will look at options for a second crossing over the Cam River, either further upstream or adjacent to the new bridge under construction

on the Bass Highway.

"The feasibility work will identify the pros and cons of a connection between the council roads upstream compared to a duplication of the Bridge at the Bass Highway.

"This project absolutely must involve consultation with Bass Highway users and local individuals and businesses who would be impacted under the options."

The Bass Highway on either side of the bridge is a single lane in each direction. As such, any duplication of the current bridge across the Cam River on the Bass Highway would require the duplication of the Bass Highway to avoid traffic and safety issues caused by the need for vehicles to merge back into a single carriageway after crossing the bridge. That's why careful consultation is needed.

Duplication of the Bass Highway through Cooee would inevitably involve significant property acquisitions and business disruptions, including the likely removal of parking.

A second crossing upstream would be through suburban streets on the local road network, which would have its own challenges to consider and work through.

The Tasmanian Liberal Government recognises the importance of the Cam River Bridge and with the disruption of late October's flood damage now behind us, we are moving quickly to identify viable locations for a second crossing, which will be consulted with North-West communities.

Contact: [illegible] Phone: [illegible]

Appendix 2

Tabled and incorporated into Hansard
L. Hiscutt
9 NOV 2022

table. a incorporate Hansard.

QUESTION ON/ WITHOUT NOTICE

Question No. [number] of [Year]
Legislative Council

ASKED BY: Hon. Ruth Forrest MLC

ANSWERED BY: Hon Leonie Hiscutt MLC

QUESTION:

With regard to the shipping service to and from King Island via Sea Road and Bass Island Line, over the last 5 years, reported by year:

1. How many twenty-foot equivalent units (TEU's) have been transported from the Tasmanian mainland to King Island where products have been sourced in Tasmania; and

2. How many twenty-foot equivalent units (TEU's) have been transported from the Tasmanian mainland to King Island where products have been sourced in Victoria:
   a. prior to the commencement of the new service where the John Duigan only sails between King Island and Devonport; and
   b. since the commencement of the new service where the John Duigan only sails between King Island and Devonport?
3. Please provide total freight volumes transported from Victoria to King Island, via Devonport by month for the last 12 months; and
4. Please provide total freight volumes transported from Devonport to King Island, by month for the last 12 months

ANSWER:

1. BIL (the shipper) does not have this information. There is no requirement for sourcing of origin of product transported from customers.
2. As above, BIL (the shipper) does not have this information. There is no requirement for sourcing of origin of product transported from customers.

CA

3. and 4.

See table below which reports freight volumes carried into King Island from Victoria, (via Devonport) and direct from Devonport (noting the commencement of the current operating model on 14 March 2022).

TOTAL TEU's SHIPPED TO KING ISLAND BY BIL SERVICE ROUTE

FROM SEPTEMBER 2021 TO SEPTEMBER 2022

	CURRENT OPERATING SERVICE	*CURRENT OPERATING SERVICE*
Route	Melbourne to King Island (Transhipped via Devonport) Starting 14th March 2022	Devonport to King Island (Direct Route)
Mar-22	43	91
Apr-22	64	159
May-22	73	189
Jun-22	54	119
Jul-22	37	78
Aug-22	53	68
Sep-22	38	59

APPROVED/NOT APPROVED

Hon Michael Ferguson MP
Deputy Premier
Minister for Infrastructure and Transport

Date: 1 November 2022

Appendix 3

read then table & incorporate

QUESTION WITHOUT NOTICE

Question No. [number] of 2022
Legislative Council

ASKED BY: Hon Ruth Forrest MLC

ANSWERED BY: Leader of the House

Tabled and incorporated into Hansard
L. Hiscutt
9 NOV 2022

QUESTION:

With regard to the Community Support Levy (CSL), over the last two years:

1. How much revenue has been raised through the Community Support Levy; and

   a. Of the 25% for the benefit of sport and recreation clubs, please provide a breakdown of all funds dispersed;

   b. Of the 25% for the benefit of charitable organisations, please provide a breakdown of all funds dispersed;

   c. Of the 50% for the provision of gambling support services, please provide a breakdown of all funds dispersed for;

      i. research into gambling;
      ii. services for the prevention of compulsive gambling;
      iii. treatment or rehabilitation of compulsive gamblers;
      iv. community education concerning gambling; and
      v. other health services.

ANSWER:

1. The most recently published information on the Community Support Levy receipts and disbursement to agencies is provided in the Tasmanian Liquor and Gaming Commission Annual Reports for 2020-21 and 2019-20. These Reports are tabled annually in Parliament and are available from the Treasury website: www.treasury.tas.gov.au/liquor-and-gaming/about-us/tasmanian-liquor-and-gaming-commission.

The Commission's 2021-22 Annual Report, which will detail the 2021-22 CSL receipts and disbursements is currently being finalised and is expected to be tabled in Parliament in November.

Allocations under specific grant programs are reported separately by the Gambling Support Program and Sport and Recreation on their respective websites. Links to this information are available from:

- Gambling Support Program: www.dpac.tas.gov.au/divisions/cpp/community-and-disability-services/gambling-support-program/grants.
- Sport and Recreation: www.stategrowth.tas.gov.au/sportrec/grants_and_funding_programs.

APPROVED/NOT APPROVED

Hon Michael Ferguson MP
Deputy Premier
Treasurer

Date: 27 October 2022