PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 24 August 2023

REVISED EDITION

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The President, **Mr Farrell**, took the Chair at 11.00 a.m., acknowledged the Traditional People and read Prayers.

LEAVE OF ABSENCE

Member for Rosevears - Ms Palmer

[11.01 a.m.]

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

> That the member for Rosevears, Ms Palmer, be granted leave of absence from the service of the Council for today's sitting.

Motion agreed to.

JUSTICE MISCELLANEOUS (REMOVAL OF OUTDATED SEX TERMINOLOGY) BILL 2023 (No. 4)

Consideration of Amendments made in Committee of the Whole Council

[11.02 a.m.]

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

> That the bill as amended in Committee of the Whole Council be now taken into consideration.

Motion agreed to.

Amendments read the first time.

Amendments read the second time.

Amendments agreed to.

Bill as amended agreed to.

Bill read the third time.

POLICE POWERS (SURVEILLANCE DEVICES) AMENDMENT BILL 2022 (No. 57)

Consideration of Amendments made in Committee of the Whole Council

[11.05 a.m.]

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

> That the bill as amended in Committee of the Whole Council be now taken into consideration.

Motion agreed to.

Amendments read the first time.

Amendments read the second time.

Amendments agreed to.

Bill as amended agreed to.

Bill read the third time.

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 continuation of our briefings on the electoral donations bill.

Sitting suspended from 11.08 a.m. to 12.30 p.m.

RECOGNITION OF VISITORS

Mr PRESIDENT - Honourable members, before I call orders of the day, I welcome to the Chamber today people joining us from the Commonwealth Women Parliamentarians Stepping Up program. This is the 2023 schools event to encourage women to consider a career in politics. I am sure all of us, regardless of whether we are men or women, will make you feel warmly welcome to the Legislative Council today and we hope that you enjoy your time in the parliament. If you are interested in a career, a number of people here would happily give you some free advice. Welcome on behalf of us all.

Members - Hear, hear.

HOUSING LAND SUPPLY AMENDMENT BILL 2023 (No. 17)

Second Reading

[12.31 p.m.]

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

That the bill be now read the second time.

This amendment bill proposes to amend the Housing Land Supply Act of 2018 (the act), to enable Housing Land Supply Orders to continue to be made until the end of 2032.

The Housing Land Supply Act was developed following the then Premier's Housing Summit in 2018. The introduction of the act was unanimously supported by both Houses of parliament as a more direct process for rezoning and modifying planning scheme requirements for eligible government land to facilitate housing, particularly for social and affordable housing developments.

The Housing Land Supply Act targets land that is suitable for residential purposes through the making of Housing Land Supply Orders. It replaces the normal planning scheme amendment processes under the Land Use Planning and Approvals Act 1993.

While providing shorter time frames for the assessment and approval of specific land for residential development, it maintains the same rigorous assessment criteria from the normal amendment process along with specific criteria for determining the suitability of the land for housing.

While the Housing Land Supply Act provides a more efficient process for rezoning, it also sets a higher test than the normal planning scheme amendment process, to ensure it is suitable for social and affordable housing. It also provides a more comprehensive consultation process, with more stakeholders directly notified and more locations available to view the draft order and supporting documents during the consultation period.

The main benefit of the Housing Land Supply Act is its focus on social and affordable housing. The making of the Housing Land Supply Order vests the land with Homes Tasmania for delivery through the Homes Tasmania Act 2022. In effect, it provides a form of 'inclusionary zoning' through the planning scheme, ensuring that a share of new housing construction is allocated for those most in need.

The Housing Land Supply Act has been very successful in rezoning a number of areas of suitable government land. To date, 12 Housing Land Supply Orders have been made under the act for land across all the three regions in the state, in the municipalities of Glenorchy, Clarence, Hobart, Kingborough, Launceston, Devonport and Burnie. A total of around 61 hectares has now been rezoned for housing purposes and transferred to Homes Tasmania for delivery, which could deliver around 1000 new homes.

More draft orders are currently being progressed for areas around the state to further assist with Homes Tasmania's work program in providing more housing options for

Tasmanians. Some of these draft orders are currently part way through the assessment process under the act, and I understand Homes Tasmania is preparing several others.

The Housing Land Supply Act was primarily intended as a short-term response, providing five years for the initial stock of suitable government land to be rezoned for housing. In 2021, we extended the scope of land to which orders could apply to include newly acquired land. The success of the act and the ability for Homes Tasmania to now bring forward newly acquired land underpins the need to extend its operations. At the time of introducing the Housing Land Supply Act 2018, there was strong demand for housing in Tasmania. This has been further amplified with significant house and rental price rises and increased demand for housing in general across Tasmania.

With the continued demand for housing, more is being done across a number of sectors with interventions ranging well beyond the planning system. This includes the Tasmanian Government's ambitious 10-year plan to provide 10 000 new social and affordable homes by 2032. This bill aligns our capacity to make Housing Land Supply Orders with that plan. It will not only allow the current draft orders to be finalised, but it will enable Homes Tasmania to continue to identify new areas of land suitable for residential development, rapidly rezoning it, and more social and affordable houses for Tasmania.

Mr President, I commend the bill to the House.

[12.36 p.m.]

Mr EDMUNDS (Pembroke) - Mr President, today we are considering extending the time frame that the Housing Land Supply Act can operate for. Given this act has expired and the urgency, I will keep my comments brief to pass this as quickly as possible.

Since it was first dealt with, the urgency of the original legislation has only increased, not decreased. Since 2014, the housing waitlist has doubled from about 2200 families, when there was a change of government, to more than 4500 families. Additionally, and probably in related news, the 2021 Census figures show Tasmania had a 45 per cent increase in people experiencing homelessness compared to the previous Census in 2016. That 45 per cent increase was the fastest growing rate of homelessness in the country. That is a very concerning statistic we should all be worried about and acting upon.

I remember the letter the member for Hobart shared earlier this year about the feeling of abject failure a father felt having to have his daughter sleep in their car before going to school. It is unacceptable for us as a state to have people finding themselves in those sorts of situations. For these people, it is cold comfort to hear about some more legislation and an extended time frame for rezonings. They just want to know when they will be in a home.

I have a few more statistics. We have more than 15 000 lots of residential zoned land sitting vacant across this state. Just last month, ABS data revealed the number of new houses starting to be built in Tasmania was at a five-and-a-half-year low. Rents continue to skyrocket. Right now, people in our state are sleeping rough or couch surfing with friends and family, living in garages and campervans, or in private rental and cannot afford the rising cost of living. Alongside the extra stresses people with mortgages are facing, we are in danger of even more Tasmanians adding to the housing waitlist and, lamentably, homelessness.

Back to this matter, if you add up the promises, there are somewhere between 800 and 1000 dwellings out of those different sites around Tasmania subject to these Housing Land Supply Orders. Today we have been informed that just six houses have been built.

I know this legislation is dealing specifically with zoning. However, that number of houses built - six - shows just how much work is still ahead to deliver on the promises made. Yes, today we are dealing with a planning bill and we know the fundamental solution required to address the housing crisis in Tasmania is increasing supply. Planning is the key in the lock to unlocking and solving the housing crisis.

Our party has already announced policies to increase supply - including through build-to-rent proposals to deliver 1000 extra rentals, extending and turbocharging MyHome, and removing the first-mover disadvantage on subdivisions. We have also said we will urgently repair the 215 uninhabitable social housing properties around Tasmania.

I am looking forward to continuing to enhance those policies and bring forward more - if you allow it, Mr President - constructive policy ideas in the weeks and months to come.

We are here because the original land supply legislation expired in June. I do not know if these sorts of expiries are commonplace, but I make the argument that extending this legislation should have been more of a priority for the Planning minister than calling councils bloody-minded and interfering in local government decision-making.

You talk about 'taking the politics out of planning'. We have a Planning minister more focused on politics and score-settling in Local Government, I would argue, than delivering things like we are dealing with today. Would we have dealt with it before it expired if there were not fights being picked?

We are going to support this legislation, but it is imperative on the Government to act as swiftly as it can to ensure that those sites all around Tasmania could be housing many of those Tasmanians as soon as possible.

With those remarks, and certainly in support of my Labor colleagues up here, I urge the Government to keep on with the job.

[12.40 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I rise to make a contribution to this amendment bill. I said in the briefing - I do not think it was an open forum at the time; I think there might have only been two or three people - that it would be a pretty brave member that would not support this amendment bill because we all know the challenges. We have just heard from the member for Pembroke some very sobering, and continuing to be sobering, statistics. I have said in this place many times that I get at least one request a week for someone to be housed in the areas that I represent, particularly in and around those rural areas.

Unfortunately, there is not that much activity in those outlying areas. I know it is a challenge to find the land, but a number of the councils I represent have been very proactive in providing some parcels of land. Often, they are only small parcels so you are not going to be able to have 10 or 15 houses or units in those areas, but even three units make a difference to three families or people.

I am seeing a number of the units being built in and around these communities for people aged 55 and over who are on housing waitlist and that is certainly positive. Often, they find that going into a three-bedroom home is not efficient for them and that would be a home for somebody else. I am really encouraged by that initiative.

It continues to be an issue in our communities. Whether that is the way that those people who are building the homes go about their communication and consultation with the communities - only last week I had someone contact me from the Deloraine area, and most put out about having to have some social housing next to their property.

I talked through some of the issues with them, and we all know that there is a DA process; but they argued that they did not see the DA process and therefore did not make any contribution to that. Once it has been announced, the DA has been approved and earthworks machinery turns up and then, 'Oh, my goodness, we weren't aware'.

I think there needs to be that better communication with adjoining landowners when there is a subdivision being undertaken because, unless we have that, we are going to continue to have this pushback. It is not ideal. You do not want people moving into an area where they already feel some hostility. As they are moving in, they are probably as excited as anything about moving into a new home and, unfortunately, their adjoining neighbours are not as welcoming as we would like to think a community might be. That is a point I wanted to make.

Mr President, I noted in the second reading speech that it said that while the Housing Land Supply Act provides a more efficient process for rezoning, it also sets a higher test than the normal planning scheme amendment process, to ensure it is suitable for social and affordable housing. I am not sure a higher test is easily going to put us on that 10 000 new homes target. It continues to be a difficult path for developers and those in that area. I expect Homes Tasmania are finding out very quickly that it is not as easy as the Homes Tasmania legislation said it was going to be. In regard to the three areas under current draft orders - I omitted to write down one, I have Technopark and Brighton, but I know there was another one mentioned -

Mr Edmunds - Penguin.

Ms RATTRAY - Penguin, thank you. That would be the member for Montgomery and Leader's area, a very nice part of our state. Again, they are much larger areas. Obviously, there is a significant growth in Technopark. The member for Launceston may well speak about that area. Brighton is a very big growth area now. I do not know Penguin as well as some of the others. I am interested in understanding where those other gaps are going to be filled.

The areas that have already received some orders and now these three new ones, Glenorchy, Clarence, Hobart, Kingborough, Launceston, Devonport and Burnie - I understand there is some infill in other areas where local government has been somewhat generous and supported some supply of land to fill a very great need in those areas. Where are these pieces of land being identified? I recall from Homes Tasmania's establishment, that was one of the key issues they were going to have this data ready to go. How is that tracking? Unless we have those inclusive communities, it is going to take a long time. I doubt we will ever meet the aspirational 10 000 social and affordable homes by 2032.

I did put a question mark originally on why a 10-year extension, when we had previously only done a five-year one. I understand that is the target for the additional 10 000 social and affordable homes. Why would it not be five years and then this comes back to the parliament again? Not only does it keep it fresh, it is an opportunity for the parliament to provide some feedback to the government of the day and Homes Tasmania. Why was five years not considered, acknowledging I realise the 10-year plan is for 2032?

I have no comment about why we missed the July deadline. I will leave that to others to make some assumptions on, which they have. Also, I continue to encourage those who have this massive task ahead of them to just get on with it. Otherwise, we are going to continue to see and hear about those very distressing stories about people trying to live out of a car. It is just not Tasmania.

[12.49 p.m.]

Mr GAFFNEY (Mersey) - Mr President, this amendment bill is a vehicle to extend the housing land strategy for 10 years. Unlike the member for McIntyre, I have no issue with it being a 10-year time frame, because it is not going to change if it comes back in five years, anyway. It is just a way of doing it.

I was interested in your NIMBY and NOTE analysis of the social factors of social housing. For those who do not know the terms, NIMBY is 'not in my backyard' and NOTE is 'not over there, either'. It is a factor that comes in quite often, so I had a bit of a chuckle.

It comes as no surprise that the member of Pembroke highlighted some of their strategies and some of their housing policy. You take that opportunity when you can. If it was not for the Government putting in 'this includes the Tasmanian Government's ambitious 10-year plan to provide 10 000 new social and affordable homes', I probably would have thought -

Ms Rattray - Standing order 100.

Mr GAFFNEY - Yes, but it is nonsense. It reminds me of the time they said, 'the healthiest state by 2025'. I have not heard that for a while.

Ms Forrest - We are not going to get there, not by a long stretch.

Mr GAFFNEY - Exactly. But we will support this; it makes sense. It does not need to come back in five years, it needs to be a 10-year plan. No doubt, the Opposition will continue to highlight the amount of new dwellings being built. We all live in hope that the numbers increase quickly. We must pass this bill; it makes sense. I am supportive of the amendment bill.

[12.51 p.m.]

Ms FORREST (Murchison) - Mr President, as has been stated, the bill is to extend the time by 10 years for a current process which has been in place since 2018, to rezone public land to make it accessible for housing. I support that.

Housing is a fundamental human right. We should never forget that - those of us who are lucky enough to have a roof over our head and a high degree of comfort compared to so many people that come through our doors. We should be very grateful for it. It is very distressing when people come to our offices, or we read about their experiences in social media

or in the mainstream media. It is heartbreaking. Some of these people have tried very hard. They have done everything they could, or should, to find appropriate housing and through no fault of their own, have found themselves in these situations. It is distressing when you feel like you have no answers for them.

It is appropriate that we continue this process to try to facilitate at least the availability of land. This has been in place now for five years. I note that the Leader's second reading speech says that:

> A total of around 61 hectares has now been rezoned for housing purposes and transferred to Homes Tasmania for delivery, which could deliver around 1000 new homes.

How many have been delivered? Six. I am not necessarily saying that is the Government's fault. A whole heap of factors have played into that, I am sure; but this is not fixing the problem by any stretch. People are not being housed through this mechanism, so something else has to change.

In the briefing we heard about other measures the Government is considering. Not that there is a specific measure they are considering - we were told they were considering other mechanisms to try to speed up the process of getting houses on the ground. I go to the member for McIntyre's comment about five more years. We have built six houses in five years. Ten years: let us make it a streamlined process to try to make land available, but get the houses built.

Ms Rattray - Through you, Mr President - it appears to me that the land is available, it is just that the houses are not being put on the land.

Ms FORREST - That is what I was saying; there are other aspects. There may be other things that also need to change.

Ms Rattray - You could put a fair few houses on 61 hectares if you got on with it.

Ms FORREST - Regarding the 12 orders that have already been dealt with - was it 12 that have been done, or 12 that are in the pipeline? I did not write down the number that have been done. In any event, they have opened up a certain area of land. Three have been lodged, we were told in the briefing, and there are also 12 that are being considered and are going through the land supply process on the go that would open up a further 77 hectares; that is being looked at.

There is land in the pipeline. The question that I asked in the briefing was: if we did not support this, would that mean that those processes that are currently on foot would just stop? The answer was they would just stop. They would have to go through the slower, some may say more cumbersome while some would say more rigorous, process. There is a degree of rigour in this process - in the principal act, not the bill before us - to deal with that. I am frustrated that we have seen so few houses built over that period.

I was also very concerned to hear those representatives from Homes Tasmania talking about the challenges they have, and the front-end consultation they seek to do. A lot of it is to deal with the stigma that people attach to social housing. Historically we did a very poor job

of this decades ago, where we put a lot of public or social housing together in one location, often on the edge of town, not near services, not near schools, not near health facilities, not near anything, and wondered why that did not go so well. In more recent years, since then, we have realised that was a very bad thing to do.

The Government has tried, rightly, to sell off properties in those areas to try to encourage home ownership in those areas, but also to buy up properties in areas that are not predominantly social or public housing. Anyone in a private property may have a public tenant living next door and not even know. Even in a privately owned residence right next door, you can have some pretty unpleasant neighbours who are very disruptive, who are aggressive or nasty, or whatever. Just because you are a public housing tenant does not make you a bad person. It makes you a person who needs a roof over their head and has not been able to manage that themselves. With the current cost of living, the current rental prices of the private market and the availability of stock, it is no wonder so many people find themselves in this situation.

I was quite distressed to hear that is still a major issue that we have to overcome. I think the Government needs to do a lot more work on that with Homes Tasmania to try to remove some of this stigma. To the member of Mersey's comment about NIMBY - 'not in my backyard' - and 'not over there, either', maybe we need to start a whole YIMBY campaign - 'yes, in my backyard' - and do something like that. It has become a really bad social stigma issue. We have an obligation as leaders in our state to do something about that.

Mr President, I certainly support the bill. It is important that we extend the time frame to enable particularly those processes that are on foot now to complete. However, I would like to hear the Leader, perhaps in her reply, detail some of the things the Government is doing to see an increase in the number of homes built. As she pointed out in her speech, the Government has an ambitious 10-year plan to provide 10 000 new social and affordable homes by 2032. We are doing six every five years; that is just over one a year. I did mention to the member for Huon if he could manage the odd one more than that, and he said he probably could, but we have to lift the game. If the Government is going to go anywhere near meeting that target, or that ambitious target, we have to ramp it up.

Mrs Hiscutt - Through you, Mr President, are you talking about homes built outside of Homes Tasmania as still government homes?

Ms FORREST - Yes. This is the ambitious 10-year plan to provided 10 000 new social and affordable homes. We are not doing too well so far. Mr President, with those comments, I note that I support the bill.

RECOGNITION OF VISITORS

Mr PRESIDENT - Members, very quickly, I welcome to the Chamber the second group from the CWP Stepping Up program. We are currently in the second reading stage of the Housing Land Supply Amendment Bill, which I imagine other members will get an opportunity to speak to after the lunchbreak, and then we will go into the Committee stage to further consider the bill.

Members - Hear, hear.

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

QUESTIONS

Heavy Vehicles - Driver Assessment

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

[2.31 p.m.]

In regard to heavy vehicle assessment provider AJL Training based in Launceston, can the minister please confirm:

(1) Is it correct there is currently approximately a 20-week wait time to undertake a driver assessment with this provider?

(2) Can the Leader, on behalf of the minister, please confirm if this provider will be relinquishing their contract with the Department of State Growth in December this year?

(3) If this is correct, how is the heavy vehicle industry to meet its training and licensing requirements to have the necessary industry skills to conduct their businesses?

(4) If correct, what action are the minister and the department taking to address this situation?

ANSWER

Mr President, I thank the member for her question.

(1) AJL Training's current wait time is 19 weeks. It has one trainer to provide Light Rigid to Multi-Combination training and one for Light Rigid to Heavy Rigid training.

(2) AJL Training will not continue to provide heavy vehicle training post-December 2023.

(3) The Department of State Growth's other contracted heavy vehicle driver training provider, OnRoad OffRoad, has employed an additional seven heavy vehicle trainers, increasing its numbers of assessors to 14. The first of these new trainers will commence training/assessments next week. A further four will start within three weeks and another two in six weeks.

OnRoad OffRoad wait times are currently under four weeks for all classes.

OnRoad OffRoad are able to provide heavy vehicle driver training in all classes to the north, north-west and southern regions.

Over the 2022-23 financial year, AJL Training delivered 32 per cent of the heavy vehicle training and assessment, with the remainder delivered by OnRoad OffRoad.

In the past 12 months, OnRoad OffRoad has not exceeded these agreed wait times, whereas AJL Training continued to experience resourcing issues.

(4) The Minister for Infrastructure and Transport has convened meetings with AJL Training, the department and industry stakeholders. Following this, the Department of State

Growth, including Skills Tasmania, is working with industry and other key stakeholders to develop a sustainable delivery model that provides greater certainty of access to these services. The department will provide advice to the minister shortly.

Royal Hobart Hospital - Redevelopment

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

[2.34 p.m.]

At the last state election, the Liberal Government pledged $110 million to the expanded stage 2 Royal Hobart Hospital Redevelopment. That pledge included a complete refurbishment of A-Block and an expanded Emergency Department. The Government said the project would commence this year and would be completed in 2025 - just two years from now.

Can the Leader please advise if this project is on track for completion in 2025?

ANSWER

Mr President, I thank the member for her question. The answer is:

The expansion of the Emergency Department is being undertaken in two stages, with the first stage completed in March this year. The second stage is being planned and designed so additional infrastructure can be delivered without impacting the clinical services during construction. Construction is expected to commence in March 2024.

A number of projects have been completed in relation to the A-Block refurbishment, including the Rapid Assessment Medical Unit, Endoscopy, Acute Older Persons Unit, and Trauma and Acute Surgical Unit.

Planning for the replacement of the A-Block façade, roof and additional internal refurbishment is in the planning phase, and construction of these spaces is anticipated to commence in the first quarter of 2024.

Ms LOVELL - A supplementary question. The question was whether the Leader could advise if the project was on track for completion in 2025. Her time line is for commencement, but not completion.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank the member for that. I will resubmit this for a further response.

Bruny Island Ferry - Duplication of Berthing Facilities

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

[2.36 p.m.]

On 17 August, the Leader provided an answer to a question put on notice on 28 June 2023 in relation to the Bruny Island Ferry and duplication of the ferry berthing facilities. However, part of the question was not answered.

The question on notice was:

> What is the schedule for completion of the works, including installation of ramps and gantries?

While the Leader advised that commencement of the installation was expected to commence in spring 2023, there was no information provided about an expected date for completion of these works. Can the Leader please advise when the work is expected to be completed, rather than commenced?

ANSWER

Mr President, I thank the member for the question. The ramps installation for the ferry is scheduled for completion in December 2023, weather permitting.

ANSWER TO QUESTION

Production of Cabinet Documents Report - Feedback from Members

[2.36 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, while I am on my feet, I have the answer to a question from the member for Nelson. The member sought clarification of comments I made in response to the member for Murchison's notice of motion regarding the Legislative Council Select Committee on Production of Documents.

The Premier has tabled the Production of Cabinet Documents Report - prepared by the Department of Premier and Cabinet - in the House of Assembly, and I, as Leader of the Government in the Legislative Council, have done the same in this place. The report is for the benefit and information of all members.

The Premier has invited feedback from members of the House of Assembly by 28 August 2023, to help guide the next steps taken in that place regarding processes surrounding the production of documents. Through me, on the Floor of this place on Tuesday last, he has also invited members of the Legislative Council to provide their comments if they so desire.

For the avoidance of doubt, feedback from members - if they wish to provide it - should be sent to me at my office by 28 August 2023 to help inform the position the Government takes

forward. While this feedback will inform the Government's position in both Chambers, it is obviously important to highlight that any final resolution on this matter will be that of each independent House, in complete autonomy from one another. In that context, further action on the tabled Production of Cabinet Documents Report in this place remains a matter for this place.

HOUSING LAND SUPPLY AMENDMENT BILL 2023 (No. 17)

Second Reading

Resumed from above (page 9).

[2.38 p.m.]

Mr VALENTINE (Hobart) - Mr President, I thank the Leader for the briefings this morning. It is essential that we find out the detail.

In my lifetime - and it goes back quite a while, without putting a date on it - it seems there has not been a time when we have seen such a demonstrated need for housing. It is at a critical stage, for some. Driving to work this morning, I saw a lady who was probably over 70, pushing a shopping trolley in the New Town area with four or five bags, nowhere to live and sleeping rough for the night. I noticed that and will try my best to follow up on that. It is not the first time I have noticed that individual this week. Someone is without a house not in my electorate, but that does not matter, this person is homeless, it is everyone's electorate.

Mr PRESIDENT - This morning, I went for a walk around the city, which is in your electorate, and there were a couple of homeless people outside the main entrance to Centrepoint, which is something I had not seen for a long time. That was quite confronting.

Mr VALENTINE - It is, especially during winter. It has not been a terribly harsh winter, but that does not matter. You have to contemplate what these people are going through. Some of them have jobs to go to. How they handle that is beyond me. Getting some breakfast this morning, I parked next to a car at Derwent Park with heaps of stuff on the back seat. It caused you to wonder whether it was someone who was sleeping in the car.

It really is tough times. While we were not part of the 1929 Depression, the images of that era were with people lining up to soup kitchens and that sort of thing and, no doubt, a lot of them were without homes. In the late 1940s, after the war, soldiers returning home and whether they would be able to provide them with houses to go to. There were soldier settlement schemes and the like. No doubt there have been times in the past where we have needed lots of housing. Some of those opportunities taken back then followed the US model of the broadacre subdivisions. Other members have reflected on that. That has not been seen to work effectively. We need to be smarter at that.

This amendment bill before us is going to look at a different model to broadacre, dealing in smaller parcels of land. It is 15 per cent social housing, 35 per cent MyHome program and 50 per cent other. Correct me if I am wrong, Leader.

The MyHome program is terrific and gives people who have less resources the opportunity to be able to get into the market. As they pay the money back to the government, then that gives the government more money to be able to put back into another home that might

be being built. At the end of the day, the people who have had the assistance from government might end up owning their home and able to stand on their own two feet. The government is like a different form of bank. It just provides those opportunities.

Some people will have their grudges about that sort of model, but I think it works. Having the 35 per cent social, like in the MyHome programs, can work effectively providing that opportunity for community to develop and the level of disadvantage not being in one spot, but in and through the community. They have community support as a result of that. There is something to be said for that.

We were told during the briefings that the act contemplates the placing of houses near employment and public transport. That obviously is important. Back when, because of the cheapness of the land, people were being placed out, finding they had to go further and further out to be able to afford to find housing - in places like Kempton, for instance, and while that is a nice community to live -

Ms Rattray - It is a lovely place.

Mr VALENTINE - It is a nice community to live in, but if you live there and you have to get into town, the expense of transport is quite a significant problem. There are people who do not have the resources to be able to do that and it almost entrenches disadvantage. Having them closer to employment and public transport is what I believe the act does.

Leader, correct me if I am wrong: the current Housing Land Supply Order still has a fair bit of ministerial involvement. I have said in this place before, under the act, ministerial involvement is still there. I have my druthers when it comes to the level of ministerial control, but the thing about this particular act is that it is a disallowable instrument on the supply order. It comes to both Houses of parliament and it can be scrutinised. It just means the individual members in this Chamber and the other have to be alert to that.

Ms Forrest - I am sure you always read the tabled papers.

Mr VALENTINE - I do read the tabled papers, yes, but you have to make sure you do.

Ms Forrest - Yes, it is the job.

Mr VALENTINE - There are, still under this, opportunities for various individuals to put in a submission to it. For instance, adjoining landowners can put in a submission, and owners of other land the minister considers likely to be affected by the use of the subject land for residential purposes. Also, certain bodies can put in submissions - statutory authorities, the likes of electricity authorities, gas, sewerage, telcos, water bodies, fire service, heritage council and relevant local government councils. They all have the opportunity. We were also informed this morning during briefings that the regional land use strategies are indeed adhered to. If, for some reason, the minister decides not to adhere to it in some way, shape or form, it does end up coming back to both Chambers, for scrutiny.

I support the amendment to put this further out, but want to see some results, like every other member in this Chamber. We simply must get this done and if we do not see results happening, we will want to know why. We cannot continue to see this sort of extension going

on. The important thing is that we need to address the problem effectively. Unfortunately, we have a growing population and need to cater for it. I support the bill.

[2.48 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I will start with the answers. Two members, the member for Pembroke and the member for Murchison, asked about what other options are being considered to increase the supply of housing. The proposed extension to the Housing Land Supply Act is just one initiative being progressed with a number of other reforms to improve the planning system. Obviously, with continued high demand, there is a clear priority for reforms that deliver outcomes for housing. This is the focus of the State Planning Office Work Program.

Recent National Cabinet announcements on housing have called for, amongst other things, fast-tracked processes for rezoning of surplus and under-utilised government land. We are obviously well ahead of the game to achieve this with this act, being introduced over five years ago. This provides further emphasis for its extension. The current reform program will deliver a number of significant improvements for housing, from improvements to the planning rules and decision-making and improved strategic planning to identifying suitable growth and redevelopment areas.

The reforms will also deliver a more mature planning system for the future. Full implementation of the single statewide planning scheme - the Tasmanian Planning Scheme - provides consistent planning rules for decision-making on housing developments.

Currently, we have 22 out of the 29 councils operating under the Tasmanian Planning Scheme with the remaining councils to come on board during 2023-24. Some councils have been operating under the Tasmanian Planning Scheme for more than three years. The comprehensive review of the state planning provisions will deliver improvements for the assessment of housing developments under the Tasmanian Planning Scheme. The first five-yearly review of the state planning provisions commenced last year. This is the first time we have undertaken a comprehensive review of our planning scheme requirements, and something we must do every five years.

A priority from the current five-yearly review is the Improving Residential Standards in Tasmania project, which includes a comprehensive review of the residential use and development standards in the State Planning Provisions. The project will inform amendments to the State Planning Provisions, ensuring we can provide a variety of quality housing types for Tasmanians.

The project will involve a detailed audit on housing diversity in Tasmania to determine inhibitors and enablers in the planning scheme, with a particular case study on social and affordable housing. It will look at improving amenity outcomes, and whether we need new or additional residential zones to manage medium-density and infill development and character areas.

The Housing Land Supply Amendment Bill will also build on the work currently being managed by the Department of State Growth under the Hobart City Deal, to deliver design guidelines for medium-density residential development. The planning reforms will also deliver a set of Tasmanian planning policies with detailed policies on housing, for delivery through the planning scheme and the regional land use strategies.

Comprehensive reviews of the three-year regional land use strategies have already commenced in providing approved policies for our settlement and housing, and updated strategic planning for growth and redevelopment areas.

The Tasmanian Government has also contributed significant funds to councils in all three regions to undertake detailed residential demand and supply studies to inform the review of the regional land use strategies.

We have already committed to reviewing these processes for making planning decisions, to ensure we deliver much-needed housing supply. This includes considered options for introducing independent development assessment panels to take the politics out of the planning. These are the reforms and reviews where we are focusing our resources - and this is where we will get the results.

The member for McIntyre asked about the extension for 2023 in 10 years and not five years. The extension will enable consideration of the current proposed Housing Land Supply Orders to be finalised, and more suitable government land to be considered for rezoning. Importantly, it also aligns the Housing Land Supply Act to the Government's 10-year plan.

Homes Tasmania is already undertaking detailed feasibility assessments for a dozen additional sites for around 100 hectares of land across the three regions. Extension of the act will enable these to be brought forward through the assessment process, and allow Homes Tasmania to develop the land supply pipeline for a 10-year plan.

Ms Rattray - I will be watching.

Mrs HISCUTT - The extension will also enable the current planning reforms to be finalised and implemented.

The member for McIntyre also spoke about concerns with higher order tests. The higher order tests for rezoning under the act are important to ensure we are rezoning land that is suitable for social and affordable housing. It is a more tailored process for delivering land for housing. These tests do not slow down the process; they just make sure that we are putting houses in the best locations - closer to services, employment, public transport, schools and that sort of thing.

The member for Murchison sought clarification on the number of houses constructed since 2018. There has been focus during this debate on the fact that six houses have been constructed to date as a direct outcome of the Housing Land Supply Act. I need to clarify that these are the houses that have been constructed so far on land rezoned through this process alone. This is in addition to the houses that have been constructed on already zoned land, and as a result of the standard rezoning processes under the Land Use Planning and Approvals Act.

The Housing Land Supply Act is just one process for rezoning land. It adds to a broader pipeline for housing construction. As we have already heard, the Housing Land Supply Act is one cog in a larger machine that is addressing homelessness and housing affordability.

I remember the member for Murchison saying to the member for Huon that he could build more than six houses. I bet you cannot do this, member for Huon. Homes Tasmania

advises that since the act came into effect in July 2018 until July this year, 2651 new homes have been delivered, 452 residential lots and 903 homes in the pipeline, which continues to grow. I wanted to make that clear - more than six houses have been built.

Mr Valentine - Through you, Mr President - how many would be social housing?

Mrs HISCUTT - How many of these new homes that are being delivered would be social housing? I will seek some advice on that.

Mr President, I will deliver this last answer and then adjourn while my advisers get that information, because we have a briefing at 3 p.m. I will adjourn the debate and then suspend the sitting.

The last one I have here is for the member for McIntyre about future sites. There are 10 sites that are currently being assessed for suitability. The total is 77 hectares with a possible yield of 800 lots, with suburbs including Brighton, Rokeby, Norwood, George Town, New Norfolk, Rocherlea and Ravenswood.

I will get the answer to the member for Hobart's question, but for the moment I would like to adjourn the debate.

Debate adjourned.

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 a further briefing on the Guardianship and Administration Amendment Bill 2023, on which the member for Nelson has been liaising with the Law Society.

Motion agreed to.

Sitting suspended from 2.57 p.m. to 3.30 p.m.

HOUSING LAND SUPPLY AMENDMENT BILL 2023 (No. 17)

Second Reading

Resumed from above.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I was seeking advice for one last question from the member for Hobart. Typically, the ratio of houses delivered through land rezoned under a Housing Land Supply Order is 15 per cent for social housing and 35 per cent for affordable housing. The proportion of houses delivered as social housing is determined by appropriate planning that considers the

nature of any project, its location, scale, services available in the local area and the tenure mix of surrounding suburbs. It can only be achieved by considering each project on its merits and then applying a tenure mix appropriate for that project. In response to your specific question, out of the 2651 houses constructed by Homes Tasmania, how many are for affordable housing was your question. I am advised that out of the -

Mr Valentine - How many are for social housing was the question.

Mrs HISCUTT - I am advised that out of the 2651 homes, 2072 are for social housing. Thank you, Mr President.

Bill read the second time.

HOUSING LAND SUPPLY AMENDMENT BILL 2023 (No. 17)

In Committee

Clauses 1 to 3 agreed to.

Clause 4 -
Section 4 amended (Housing land supply orders)

Ms RATTRAY - In regard to 4(b)(6), some clarification on this particular clause:

> For the avoidance of doubt, any amendment made to this Act by the *Housing Land Supply Amendment Act 2023* does not affect the validity of a housing land supply order, or a proposed housing land supply order, made or proposed in accordance with this Act as in force before the commencement of that Act.

I want to clarify that is on the housing supply orders already on foot. Is that in relation to that and why that clause is there? We have to deal with OPC and I want some absolute clarification around that.

Mrs HISCUTT - Yes, basically you are right. Ones that are on foot do not get interrupted. It validates the ones that have already been there before.

Clause 4 agreed to.

Clause 5 -
Section 5 amended (Land that may be declared to be housing supply land)

Ms RATTRAY - Madam Chair, I seek some clarification on clause 5 and the relevance of this when it refers to:

> (a) by omitting from paragraph (d)(ii) 'Forestry (Rebuilding the Forest Industry) Act 2014; and' and substituting 'Forestry (Rebuilding the Forestry Industry Act 2014.';
>
> (b) by omitting paragraph (e).

Can I have some context around why that was required in this amendment, please.

Mrs HISCUTT - It is to do with the original act. It is really there to remove the 'and'. The original act Part 2, section 5(1)(d)(ii) has an 'and' there. It is to take the 'and' out because it is not necessary.

Madam CHAIR - Fixing a typo.

Mrs HISCUTT - It relates to paragraph (e), which is to the five-year period, which is now 10 years. It is just to tidy it up. Yes.

Clause 5 agreed to.

Clause 6 agreed to.

Title as read agreed to.

Bill reported without amendment.

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

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

Motion agreed to.

GUARDIANSHIP AND ADMINISTRATION AMENDMENT BILL 2023 (No. 5)

Second Reading

[3.38 p.m.]
Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I was slowly getting through some of this work, but I will read the second reading speech of this, adjourn the debate and, again, suspend for a departmental briefing; then we will come back to this.

Mr President, I move -

That the bill now be read a second time.

The Guardianship and Administration Amendment Bill 2023 seeks to amend the Guardianship and Administration Act 1995 for the purpose of updating and modernising key concepts in the act and to establish a new legislative framework for the appointment, review and duties of decision-makers in relation to those under guardianship orders.

The bill also provides for the regulation of health and medical research by inserting new provisions for this purpose.

Importantly, the bill implements a second tranche of key recommendations of the Tasmania Law Reform Institute Review of the Guardianship and Administration Act 1995 (Tas) Final Report (the TLRI Report), which was completed in December 2018. These are complex and numerous, and the Minister for Justice has said, she prefers to legislate in tranches rather than simultaneously.

The bill also gives effect to recommendations for legislative reform arising from the Independent Review of the Public Trustee conducted by Damian Bugg AM KC, which our Government commissioned in June 2021 and was released in December 2021.

In respect of these initiatives, the bill will contemporise Tasmania's guardianship laws and bring them into line with guardianship and administration laws as recommended by the Australian Law Reform Commission and other bodies.

Tasmania's Guardianship and Administration Act was first enacted almost 30 years ago. At that time, it reflected the view of guardianship and administration within Australia. For the most part it served the purpose well; however, views on these matters have changed. The Government recognises that the concept and approaches in the act are, in some instances, outdated and in need of reform.

For some, the appointment of a guardian or administrator can occur at the most difficult times in their lives, and lead to a feeling of disempowerment and loss of control. For many who have lived a full and independent life, it can be difficult to accept that they are in need of support to assist in maintaining their living standard and ensuring that their health and wellbeing is protected.

I wish to again acknowledge community concerns about Tasmanian guardianship laws as they now stand. As has been previously indicated, this second tranche of reforms will ensure that improvements are made to address concerns and ensure that the community maintains confidence in these vital services.

The first tranche of reforms to the Guardianship and Administration Act were passed in 2021, which introduced a legislative framework for the making and implementation of advance care directives. I am pleased to advise the House that these provisions have been operational since 21 November 2022.

Advance care directives enable Tasmanians to give instructions about their future health care for use at a time when they are unable to make those decisions themselves due to a loss of decision-making ability. This second tranche of reforms takes the principles introduced as part of the establishment of a legal framework for advance care directives and applies them across the rest of the act.

Public interest in this bill has been extensive. Indeed, the minister was pleased to extend consultation on the bill last year to ensure there was further time for all stakeholders to consider the bill, after it was requested by them. The department also offered briefings for people with lived experience and their families, and also provided accessible material on the bill to gain input from a broad range of people.

The bill covers issues of considerable importance. We thank the many individuals and organisations who provided submissions in response to the draft legislation, and also to Parliamentary Counsel for their work in drafting the legislation.

I will now provide an overview of some of the bill's key reforms, namely:

- The bill clearly establishes that the appointment of a guardian or administrator is to be considered once least restrictive alternatives are no longer considered sufficient. It requires the Tasmanian Civil and Administrative Tribunal (TASCAT) to consider the appointment of the Public Guardian or Public Trustee only in circumstances where another person is not available to undertake that role.
- The bill establishes a decision-making framework which requires substitute decision-makers to respect and promote a person's decision-making ability, with support to help a person making decisions as far as practicable.
- A decision-maker is to give effect, as far as practicable, to the wishes, preferences and rights of the represented person, except in limited circumstances such as avoiding serious harm to the person.
- The bill addresses issues raised by stakeholders, such as improving communication with proposed represented persons, particularly at the stage at which an application to the TASCAT is being considered.
- Best-practice concepts are included in the definition of decision-making ability, including identifying circumstances or criteria which in and of themselves must not be used as the basis for determining that decision-making ability is lacking.
- The bill also includes arrangements for appeals to the Supreme Court in relation to decisions taken by the TASCAT.

The bill respects the voice of persons under guardianship or administration. New objects and principles apply the principles of the Convention on the Rights of Persons with Disabilities; the principle of supporting persons with impaired decision-making to make their own decisions; and promotes a person's views, wishes and preferences, and their personal and social wellbeing.

Importantly, we have listened to stakeholder concerns that confidentiality restrictions or so-called 'gag provisions' can currently limit people under guardianship and administration in telling their stories. We are pleased to share that the bill explicitly amends the Guardianship and Administration Act to allow people under guardianship orders to consent to publication of their information, if they so choose.

The bill will increase the confidence of those who are placed under guardianship or administration orders. They can have confidence that their directions, values and preferences are respected at a time when they lack decision-making ability.

The bill places the person with impaired decision-making ability back in the centre. It recognises that decision-making ability is something which may fluctuate, according to the nature of the particular decision and the context in which this is being made. Provisions in the bill encourage those who have authority to make substitute decisions to only do so where the

ability of the person to make the decision, with the aid of appropriate supports, is absent. Importantly, it requires those who make substitute decisions to take into account the wishes and preferences of the person with impaired decision-making ability, where they are unable to decide for themselves. This approach is a significant departure from the 'best interests' test that is imbedded in the current Guardianship and Administration Act.

The key feature of promoting the 'will and preference' model of decision-making are new provisions to emphasise best practice, namely that the TASCAT ensures orders are proportionate and, where possible, tailored to the needs of the individual.

Importantly, the bill incorporates a balance between recognising the importance of promoting the rights of persons with impaired decision-making ability to make their own decisions, and ensuring that effective safeguarding mechanisms are in place to protect those persons from harm where it is needed.

While the bill retains the ability of the TASCAT to make emergency orders, these orders will be now known as interlocutory orders. They may only be made in circumstances where there is an immediate risk of harm to the health, welfare, property or financial situation of a person, including a risk of abuse, exploitation or neglect. This will help to ensure that emergency orders are considered only in the most urgent of circumstances.

The bill also places requirements on those making applications to provide more information to the person and their family about the application, the nature of the issues that give rise to the concern, and options for seeking independent advice and advocacy support prior to any hearings.

The bill also introduces change to TASCAT procedures when dealing with applications, including by ensuring that the views of any close family members who attend the hearing can be heard.

The bill also expands the right of appeal to the Supreme Court as a right on the basis of both fact and law in relation to guardianship and administration orders. This will simplify the process of reviewing circumstances where the represented person disagrees with orders made by the TASCAT.

The bill also requires the Public Guardian and Public Trustee to establish a best-practice complaints process and to make information on these processes clear and publicly available.

The bill also provides authority to the Public Guardian to provide preliminary assistance in dispute resolution involving private guardians and administrators. This includes the ability to arrange for the conduct of mediation where this may assist in addressing the issues.

The Government acknowledges the hard work undertaken by the TASCAT to ensure that balanced decisions are made in relation to applications for guardianship and administration, and also the Public Guardian and Public Trustee who provide essential services where few other options are available. These bodies provide services to many thousands of Tasmanians, sometimes at their most vulnerable, and achieve many positive outcomes and results.

Mr President, another key reform included in the bill relates to provisions which will regulate the involvement of people with impaired decision-making ability in health and medical research.

By way of background, I note in recent years it has become clear that approval of a person with impaired decision-making abilities involvement in health and medical research was not able to be authorised by the person responsible, in many instances, under the medical and dental treatment provisions contained in the existing act. Unfortunately, this led to uncertainty about whether innovative treatments or procedures could be used in situations where the person was not able to provide consent. Often these procedures in emergency and other settings have life-saving outcomes; however, they are not considered 'standard' or 'accepted' treatment because they are subject to clinical trial.

A feature of the first tranche of reforms for advance care directives was to ensure a person can give consent or refusal to research in circumstances where the person has impaired decision-making ability. As mentioned, these advance care directive reforms have been in operation since 21 November 2022. The second tranche ensures the benefits of research can be available to people without advance care directives, under the consent of the person responsible, or in other carefully safeguarded arrangements consistent with national research ethics guidance.

There were examples raised during consultation on the bill regarding innovation in treatments being life-saving, which highlights why the inclusion of provisions relating to the regulation of health and medical research are so critical.

One example raised by a clinical research coordinator is the involvement of the Royal Hobart Hospital Intensive Care Unit in a research study titled 'PATCH-Trauma trial'. I will call it 'the trial' for short. This study provided that if individuals met the Human Research Ethics Committee approved inclusion criteria, they could receive an injection dose of tranexamic acid by ambulance paramedics. It is an acid injection by ambulance paramedics or a medical officer attending accident scenes to stem the risk of significant haemorrhage potentially leading to death. Prior to the trial, tranexamic acid could only be administered by a medical practitioner and this was usually in a hospital emergency department operating theatre or ICU. The trial allowed the injection to be administered much earlier with more effect, potentially saving the lives of many Tasmanian trauma victims, many of whom were, at the time, unconscious and had lost their decision-making ability.

Without the regulation of health and medical research, there is uncertainty about whether a person with impaired decision-making ability can be enrolled in such clinical research trials. This impacts the ability to participate in research in ICU settings and has diminished Tasmanians' ability to take part in significant research studies with potential benefits not only to Tasmanians, but across the world.

Provisions included in the bill make clear the criteria for how a person with impaired decision-making capacity is able to be enrolled in research. It provides safeguards to ensure that persons with impaired decision-making can only be enrolled in studies with relative ethics approval. It further acknowledges the role of advance care directives and also makes arrangements for the persons/person responsible to make decisions on their behalf.

The regulatory framework also provides for circumstances in which an advance care directive or person responsible cannot be located, usually because of the need for a time-critical response. As with other changes to the Guardianship and Administration Act, our Government considers the health and medical research provisions contained in the bill achieve an appropriate balance between safeguarding the will and preferences of a person with impaired decision-making who is unable to give or refuse consent, and enabling those persons to receive the benefit of participating in research trials.

As I have said, the bill represents a second tranche of reforms to the Guardianship and Administration Act. It does not address all areas of the act in which there is a need for reform. There are other matters which will require further amendments to the act as further tranches of reform.

I will briefly touch on the amendments proposed as part of this stage of reform.

Work is underway to review and update Tasmania's Disability Services Act 2011. As part of this process, arrangements for the regulation and oversight of restrictive practices and, in particular, whether a single authorisation pathway for restrictive practices should be established, is being addressed through that process. Any changes required to the Guardianship and Administration Act will be looked at as part of that review.

The issue of whether the state should enact separate legislation regarding medical treatment decisions in relation to children is also subject to further review.

The bill does not make any substantive amendment to the medical and dental treatment provisions of the act, other than to address issues relating to the principles that will now underpin the act, such as the move away from the 'best interests' test.

National consultations are underway to identify law reforms to the way in which enduring instruments are made and executed, particularly in relation to enduring powers of attorney. These consultations are being undertaken in the context of addressing the serious issues of financial elder abuse. It is our Government's expectation that once these processes are completed, changes to both the Guardianship and Administration Act and the Powers of Attorney Act 2000 will be needed for these purposes.

The bill does not establish a legislative framework for the official appointment of supporters to assist a person with decision-making. As a framework was sought by some submissions during consultation on the bill, I would like to address this issue in some detail.

The proposal to establish a formal, supported decision-making framework was recommended by the Australian Law Reform Commission, in its 2014 report Equality, Capacity and Disability in Commonwealth Laws. It was also recommended by the TLRI Report. The TLRI recommended the scheme extend to personal matters and consent to health care and treatment.

Since that time, supported decision-making as a concept has been given consideration across a number of areas where decisions may need to be made for or on behalf of persons with impaired decision-making ability. This includes aged care, disability support, Centrelink services and the NDIS.

Most recently, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability has commenced examining best-practice frameworks for supported decision-making. The work that the royal commission is undertaking is comprehensive. Importantly, the royal commission acknowledges there is currently no shared understanding of supported decision-making across Australia and no agreed approach to reform at this time.

A core principle underlying the current amendments to the Guardianship and Administration Act is the prioritisation of supported decision-making as a framework for decision-making. The bill makes clear that when a guardian or administrator is appointed, the right to legal agency is not extinguished. The represented person has the right to continue to make decisions where they have the capacity to do so, and where this not the case, decisions made by substitute decision-makers are to be based on the will and preference of the represented person in all but limited circumstances. The approach is what the disability royal commission refers to as will and preference substitute decision making. It is a principle approach to substitute decision-making that recognises supported decision-making as a continuum of decision support. It includes people being supported to make their own decisions, as well as decisions being made by decision-makers based on an interpretation of the will and preferences of the person to whom the decision relates.

There are various ways in which supported decision-making can be operational. Victoria, for example, has opted to enable the formal appointment of a supporter as an alternative to the appointment of a guardian or administrators. Whilst this approach embeds a legal framework for supported decision-making in their guardianship act, the option of officially appointing a supporter has had little take-up in that jurisdiction. In fact, the royal commission reports indicate they may have had the perverse effect of deterring the more informal networks of support that surround individuals in many circumstances.

The option that our Government has selected, at this stage, is to embed a requirement that all practical support should be given to a person to assist them maintain their decision-making ability whilst under a guardianship or administration order. That support may come in various forms, ranging from the provision of communication aids to support that enables the person to continue to be in control of tasks associated with their day-to-day living.

As discussions mature at a national level, our Government will then give consideration to whether the act should include a more formal legal framework for the appointment of a supporter. We also intend to consider options to embed supported decision-making into enduring instruments in a way that encourages the power of attorney or guardian to assist the person prior to the need for substitute decision-making. Consideration is also being given to how supporter decision-making can be embedded in disability law, and the Department of Justice is working with the Department of Premier and Cabinet for this purpose.

There are several other matters raised during the consultation which the minister has requested the department now examine as part of future tranches of reform. These include whether the Guardianship and Administration Act should have additional provisions governing offences and compensation, and whether the penalties in the act should be revised.

Arrangements within the guardianship system in many cases involve persons freely giving of their time to provide support to a person close to them when they need that assistance. It is often a resource-intensive task. While there is a need to ensure that if anyone misuses the powers given to them under the Guardianship and Administration Act they are able to be

brought to account, there is a risk that excessive penalties and offences may act as a deterrent to private representatives being appointed.

The bill also contains new offences in matters relating to interference with the assessment of decision-making, record keeping, and noncompliance with medical research requirements.

In conclusion, the minister has directed her department to further consider stakeholder submissions about enhancing offences, penalties and compensation provisions in Tasmanian law, as part of preparing proposals for future reforms.

Mr President, I commend the bill to the House.

Debate adjourned.

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 a further briefing on the Guardianship and Administration Amendment Bill 2023.

Sitting suspended from 4.03 p.m. to 4.45 p.m.

GUARDIANSHIP AND ADMINISTRATION AMENDMENT BILL 2023 (No. 5)

Second Reading

Resumed from above.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I had concluded my second reading speech. I am looking forward to contributions from other members. If we get through until 5.30 p.m. on this, I will consider my options after that.

[4.46 p.m.]

Ms FORREST (Murchison) - Mr President, this is an extremely important piece of legislation. It is providing a framework to ensure, as far as possible, that people who lose their participating capacity can have their preferences and wishes respected.

All of us in this place want to think that we will maintain our capacity to make our decisions and choices about how we live our lives, what sort of things we do, what sort of purchases we make - whether other people agree with those choices and those choices are good or bad. Sadly, we know that some people are born with a significant disability that means they are not easily able to make some of those choices for themselves. Some can, but they need assistance to do so.

For others who have the capacity into their adult years, they can lose it in a nanosecond. It could happen completely unexpectedly, in a second, that someone who has been quite able to manage all their own affairs suddenly cannot. That can happen at any age and any stage of our lives. So, we do need a robust framework to assist people, protect their person, protect their rights, choices, their preferences and their wishes as much as we can.

One of the key things in this, for people who currently have the capacity, is that we talk about these things. We need to talk about what our wishes are, and what they would be if we were to lose capacity. Some little time ago, we dealt with enduring guardians and advance care directive matters and we have had various changes on that, during my time here.

No-one wants to talk about death. Our own mortality is always a little bit confronting. It is hard talking to your loved ones about their death, or your death, because they are hard discussions to have. But, if we do not do it, we cannot presume to know what another person might think. Even a very close loved one may have a view on what is right for them, that is completely contrary to ours.

That is why it is so important that when people do elect to appoint someone, or they intend to appoint someone if it is an enduring situation, that they have those conversations, and not just in terms of the legislation that is before us here. They need to be sure that the person fully understands not only their wishes, preferences and the things that really matter to them, but that they also need to understand their obligations in complying with those wishes and meeting those wishes, and ensuring that they support the person to make those decisions in every way they possibly can.

In my own family, I have had a couple discussions about this with my parents and my children. We even talked about organ donation. I still remember when one of my sons turned 18 years old, I talked to him about registering to vote and considering registering on the organ donor register. He was funny - he said to me, 'I kind of think I need them now.' I said, 'I hope you need them for a very long time.' It would be good to know whether that is something you would be happy to do if the worst thing should ever happen in your life and one of your kids was in a situation where a decision needed to be made.

If I was being called upon to make those decisions at a hospital bed with a child of mine on life support, brain dead, I would want to know what they thought, beforehand. When we make these visible and documented decisions ahead of time, we have a better chance of people being aware of them and respecting them. This is particularly important with a healthcare setting with advance care directives. People have a right to refuse treatment, or to choose treatment; to choose what may be a treatment that seems to others to be inappropriate, or a waste of money. People have a right; and if they express that right we should be doing everything we possibly can to respect that and give effect to it.

I am not going to go through all the provisions of the bill. There will be an opportunity in the Committee stage for those matters to be raised. I will speak about the intent of this legislation and its purpose, and the direction this is taking. I know a lot of work has gone on nationally in these spaces, as well - and there is more work to be done. As the Leader said in her second reading speech, and as we heard in the briefings, there is another tranche of legislation to come to deal with some of the other recommendations made by the TLRI when they did their review of the Guardianship and Administration Act 1995, in their final report in 2018.

As I said, these decisions are often made at the most difficult time. People are already struggling with a sudden and catastrophic event that has meant that someone - a loved one, or indeed themselves - have lost their decision-making capacity, whether temporarily or permanently. It can be particularly difficult for someone who has been very active, and capable of making all decisions, to suddenly be faced with that circumstance - or for a family member to face it. Without some sort of clear provisions around that and, hopefully, some documented discussion outcomes about what people would want in those circumstances we are going into things blindly. Mr President, it does happen from time to time, sadly; and we all know families - perhaps including families here - that have had to face those decisions.

The Leader outlined some key reforms. The bill has clearly established that the appointment of a guardian or administrator is to be considered once least restrictive alternatives are no longer considered sufficient. We should always do everything we can to assist that person - the person who is the subject of this legislation - to be able to make their decisions, to make their choices and be assisted to do so. There is some more work to be done on the support framework around that. There is tremendous value in having people who can support people through a complex, legal process such as this.

On a slightly different point, Mr President, in our rural health report we recommended that advocates be made available to patients trying to navigate the health system. That is nowhere near as complex and legal as this, but it is unfamiliar and frightening. Many people have had no experience of our health system. They have not worked in the health system and do not understand it, and they find the system completely confounding to navigate. That is something that does not need such a formal structure. It just needs someone to say, 'Well, look, how do you engage with these health professionals? Where do you go next? How do you make sure that your GP knows that you have been in hospital, and follows it up?'

People need help to navigate that, and to know what services are out there and how to access them. Where the mental health services are, if they need those. People become very disempowered, very quickly, when they are facing difficult medical and other social circumstances. It also requires the Tasmanian Civil and Administration Tribunal to consider the appointment of a public guardian or public trustee, only in circumstances where another person is not available to undertake that role. The so-called guardian or trustee is a last resort. I am sure there will be times when that is necessary. People, sadly, can live lonely lives sometimes. They do not have people around, or the nearest relative or close person to that person who would be able to understand their obligations under the legislation and be happy to fulfil them, may live overseas. That can be inappropriate when you need to make decisions almost on a daily basis for some people.

There will be times when that is necessary. I certainly support the notion we should be getting anyone else who is closer to that person, who understands that person, who hopefully has had many discussions with that person prior to needing to enact a guardian or a trustee, so there is a better chance of that person's wishes and preferences being fully understood and complied with.

The bill also establishes a decision-making framework which requires substitute decision-makers to respect, promote and pervade a person's decision-making abilities and support them to make those decisions as far as practicable. This is a really important point. This takes time. You know how frustrating it can be trying to deal with someone who does not speak English, trying to understand what they need. They are trying really hard. Australia is

probably one of the most unilingual countries in the world for those who were born here. I feel embarrassed at times when I travel - not that I have recently - but I travel overseas and all the people around Europe speak English, but I do not speak any of their languages. It must be enormously frustrating. If you are going to come here, why don't you learn to speak our language? We expect people to speak English when they come here, mostly, anyway.

Mr Valentine - You have to walk a mile in their shoes.

Ms FORREST - That is right. In terms of understanding the person's will on preferences and wishes and helping them to express those, it can take an enormous amount of patience, time and the willingness to look at other mechanisms to engage with that person you might not normally do. Communication tools or other interpreters, that sort of thing. But if it is a close person you would think you would most likely speak the same language in terms of English or some other language. Some people who may be close to that person may simply not have the time to do that and thus may not agree to be appointed as that person's guardian.

I asked the question in the briefing and made the point with one of the provisions in determining whether this person should be appointed a guardian, the tribunal has to be satisfied that person understands their obligations. That is a really difficult thing to test someone's understanding. I probably could not do it now, but back in the day I could have recited the 12 times table, because you learn some things by rote. Legislation is not something you learn by rote. You just need to understand what it means, also what it means if you do not comply. That is part of the other provision to make sure people understand what happens if they do not comply, what the penalties could be. It is not insignificant. That is the case and it should be the case.

For someone who may not have a background in law or may not have a high level of education, to actually understand their obligation under this legislation would require a degree of support for many people to do that - to undertake a role they really want to for that loved one. That is where it is critically important that the guidance to be provided will be in everyday language, accessible and available to people to help them make that decision. We do not want people falling foul of it simply because they thought they understood and could do it, but then fell foul of it.

We also know there are people out there who would seek to undermine an individual's preferences and wishes and can put up a good front. We see this in coercive relationships all the time. People are gaslit to believe they do not know what is right, that their opinions do not matter, that they are wrong, and some people are master coercive controllers. It will be incumbent on the tribunal to recognise those people because they will be there and they are hard to detect sometimes. There is always the capacity to have them removed but it could be a bit late by then. Sadly, people think that would not happen but it does. That is what the elder abuse royal commission has been looking at, and people with disability. It is about coercing people to do certain things like hand over their money, hand over the title to their house, transfer the title to their property - all those things. It does need to be a robust framework to protect people who are not completely unable to do it at times, but often unable to see what could be happening in the background.

Giving effect to an individual's wishes, preferences and rights is so important, but we cannot do that if we do not know what they are. It is incumbent on all of us to have these conversations, to write things down, to record our wishes in advance care directives and that

sort of thing in terms of our medical care. Have a will. Appoint a power of attorney in enduring positions when they are needed. I know there is more work to be done on that; that is coming later. There are so many people who do not understand that it even needs to happen. It is incumbent on all of us to talk to people who may not be aware of it, and also for the Government to do a good education program around what the obligations are, why we need to talk about it, and how we access it.

As the Leader stated, there are also the arrangements for appeals in the Supreme Court. I know there has been some contention about what areas that should include. To me, the appeals mechanisms seem to be quite sound in this, but I am happy to hear other comments in the second reading and also in the Committee stage.

The other thing that became apparent, with some of the royal commissions that have been going on, is that people with a disability have been silenced at times, not able to tell their own stories in whatever form they can. This explicitly amends the Guardianship and Administration Act to allow people under guardianship orders to consent to the publication of their information if they choose. It is important sometimes, to raise awareness of some of these real challenges and issues facing people, that we can hear those personal stories. Personal stories have a lot more impact than someone sprouting off like me here now. We should be able to hear the voices of people with lived experience to understand what we need to do and how we can best meet their needs.

The other thing that has been a bit contentious and subject of much of the discussions in our briefings, and I thank the Leader for her team - I do not know how many hours they have put in briefing us but quite a few, it is a complex area. There is a serial offender over there who is here almost every day.

Ms Rattray - Is that his new name?

Ms FORREST - We do rely on these briefings to help us to fully understand the intricacies of some of this legislation. Some of these legal frameworks are quite complex. For those of us who do not have a law background, it is helpful to have that expertise across the table and be able to sit and have a two-way conversation about some of these matters. I thank them for that. I thank them for the time and the headaches they must have as a result of it, but it is extremely helpful for us. Whilst, sadly in some respects, none of those discussions are on the public record, there is a reason for that and I am not criticising that. I am just saying that it is important that we do put some of that context back on the record in our debates so that other people know that we are not just making these decisions flippantly about whether or not we might support an amendment or whether or not we support a provision in the bill as it stands. We are very privileged to hear a lot more of this information than the average member of the public is.

Ms Rattray - Through you, Mr President - particularly when we have representation from key stakeholders in a bill like this Guardianship and Administration Amendment Bill.

Ms FORREST - Yes.

Ms Rattray - It is a really great opportunity to hear why the Government is not supporting -

Ms FORREST - Yes, and of course we have the opportunity to talk to those stakeholders ourselves, our own communities and key stakeholders as well but it is not often when you hear - I do not like to say 'one side', but you hear one perspective from one body and then you hear another from another, not necessarily from the department, so what is right here? It is helpful to be able to sit down and flesh those matters out, so I do thank the Leader.

The area that caused some concern amongst some of the key stakeholders is the TASCAT's ability to make emergency orders. These, again, are orders that by their very nature should only be made in an emergency situation and not something you would apply at the first hurdle. The bill requires them to be interlocutory orders, so they are not permanent, and neither should they be. They should always be reviewed. I am not sure whether the member for Nelson is intending to move an amendment to bring back the time frame for those interlocutory orders. That is something we did not actually ask in the briefing so much, Leader, but I was going to - and it may come up in the Committee stage if the member for Nelson brings a shorter time frame forward.

I am trying to understand and ask the question about why 28 days was chosen with a potential extension of 28 days. I know that the tribunal can meet at very short notice; obviously when there is a need for an emergency order they would be meeting at pretty short notice. I am not sure if it is one or how many members of the tribunal would need to be there at the time to make that emergency order. I was just unsure as to why 28 days was chosen. I think it is a relatively long time. I am pretty sure the Mental Health Act has a shorter time frame for - I think they are called interim orders. I have forgotten but it is the equivalent of emergency orders. I would like the Leader to explain that and what the risk would be with shortening it if there is, or what the barriers to that might be, particularly as we should be able to determine whether a permanent or longer lasting order is needed to provide what that person needs and how quickly that can occur.

Also, it is a very important provision that TASCAT procedures, when dealing with applications for guardianship, can include - or actually ensure - that the views of close family members who attend the hearing can be heard. This is particularly important in picking up anyone who is a coercive family member but also, as we know, families do not always agree. It is important for the tribunal to be able to listen to the varying views of some families, and it is always at those high-stress, highly emotionally charged times when families can be at their worst.

Some are at their best then but I am looking at the worst situations, not the best because with the best you probably do not have a problem. With the worst, it is when you have completely contrary views about what the person that the order is being applied for may have expressed or wanted or whatever. It is a task for the tribunal, I am sure, and using their judgment to determine what is the most appropriate outcome for that particular person who is the subject of that application.

The bill also requires the Public Guardian/Public Trustee to establish a best-practice complaints process and to make information on those processes clear and publicly available. It also provides authority to the Public Guardian to provide preliminary assistance in dispute resolution involving private guardians and administrators. We know in the not-so-distant past there has been some massive issues with the Public Trustee.

I have had constituents who have been deeply, negatively impacted by the actions of the Public Trustee. There has been a fairly recent review and things are changing. It is important that there is a really robust and clear complaints process, that these people have somewhere clear to go if they think their matters are not being managed appropriately by these public bodies who are charged with looking after their wishes, preferences and also their interests. We are seeing money frittered away to almost zero. It has been quite distressing.

Ms Rattray - Or not even be able to access their money.

Ms FORREST - Yes, all sorts of problems. Since the review and a change within the Public Trustee, I have not had anywhere near the issues raised at all. That is a positive.

The other area that is and will always be contentious, was the area around access to innovative treatments or procedures. How they can be used in a situation where is a person is not able to give consent. From the briefing, it was clear, when I asked for some clarity on this and I will get the Leader to confirm: do the same provisions apply to a person who has an existing lack of capacity to make decisions? Who may be involved - let us say - in a car crash, where they were knocked unconscious and there is a treatment that may be helpful for them. Under this, as I understand it, provided the process has been gone through they can receive that treatment. If it is a person who normally has capacity and has an accident where they are knocked unconscious, does the same process and procedure apply, so with that person, whether they have an existing decision-making incapacity or they have a sudden occurrence of one, that it treats them all the same?

It is an area that, if we look in history at the way people who, very sadly, have lacked decision-making capacity, have had significant disability, often an intellectual disability and that sort of thing and have been used for experimental treatments without their consent. That is an absolute anathema. It is absolutely shocking to think that has ever occurred, but we know it has. It is very important the protections are here to not permit that in any way, shape or form. I understand for a medical research treatment or involvement in health or medical research it will not be permitted without the consent of the guardian, if there is one. In circumstances where the guardian cannot be reached, who normally makes their decisions, then this can apply. For the person who already has an existing incapacity, the guardian has to be contacted at the first instance to give or not give their consent, as the case may be.

I will not go into the next stage of reform the Leader outlined, other than the comments I made regarding the official appointment of supporters. It is a very interesting body of work and I look forward to seeing what comes out of that nationally. It is an important part of making this whole scheme or system work. I hope if I ever found myself in the situation that people who are subject to these orders are that I would have someone who would be making sure I got the best support I could; who fully understood what I wished, needed and wanted to happen.

Overall, I am very glad to see these reforms coming through. We have seen parts of it already. We will no doubt see more, hopefully, in the not too-distant future. There is other disability-related legislation the Minister for Disability Services will bring into this place at some stage. I support the principle of it and will be interested to listen to some of the debate during the Committee stage, particularly, and other members' contributions on the second reading.

It is important we get this right for all the people it involves, not just the people who are subject to orders but to those who will be appointed guardians or trustees, because their role is just as important. The work that sits around the communication piece is also really important. I support the bill and look forward to the debate in the Committee stage, when we get there.

[5.16 p.m.]

Ms RATTRAY (McIntyre) - As you can see, Mr President, I was not prepared to stand today but we also did not want to lose the opportunity for others who might want to speak at a later time. I leant over to my seat buddy to my right and checked if he was good to go. I will do my best, Mr President.

Mr PRESIDENT - You do have the right to adjourn the debate and you will get the first call.

Ms RATTRAY - I am being encouraged, Mr President.

Mr PRESIDENT - Do not take it personally.

Ms RATTRAY - Before I put that motion, I will say that if the Leader was expecting me to wrap up in about 10 minutes that is not likely to happen and might make a difference. In fairness to the significance of what we are talking about - and we have had quite a number of briefings on this - as the member for Murchison did, I extend my thanks to the Leader for facilitating, and also the department for their very knowledgeable aspects of the bill. As I said by interjection earlier, to be able to put that contest of ideas forward, which is what we do when we have some information from a key stakeholder and then, 'Why is this not being progressed by the Government?' and then to hear those, it is reasonable that we do that and then we have the opportunity to put it on the record. In light of the fact we have not put anything together as yet, because I knew we were still going through the briefing process, and as it is such a significant piece of legislation, I will, by the encouragement of the Chamber, move that the debate stand adjourned.

Debate adjourned.

ELECTORAL DISCLOSURE AND FUNDING BILL 2022 (No. 25)

Second Reading

[5.19 p.m.]

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

That the bill be now read a second time.

I wish to point out we have done five hours of briefings on these two bills and it is not like we have not made a start on it. Members might be interested in the amount of time that they have spent in briefings: five hours, almost to the minute.

Mr President, this bill is one of three bills that delivers on reforms identified as part of the Electoral Act Review. The Electoral Act Review has been delivered at a time when changes

to electoral laws are occurring across Australia and a number of decisions have been handed down by the High Court in relation to electoral law which reveal the complexities of regulating the electoral process. The final report makes 11 high-level recommendations for proposed reform to modernise our current system and create a political donations disclosure regime specifically for Tasmania. The review involved two rounds of public consultation and has already led to amendments to the Electoral Act 2004 which commenced in 2019.

The recommendations in the final report broadly fall into four areas and they are:

(1) Recommendations of a technical nature that would ensure our electoral system is effective and contemporary.

(2) Recommendations relating to a new disclosure regime for candidates and political parties.

(3) Recommendations relating to the regulation of third-party campaigners, donors and associated entities; and

(4) A recommendation in relation to the public funding of election campaigns.

The Tasmanian Government is committed to ensuring that Tasmanians have confidence in our electoral system. A key premise of this is ensuring our electoral system is fair, transparent, effective and contemporary. As mentioned, the review has now yielded three pieces of legislation. The first, the Electoral Amendment Bill 2019, passed this parliament on 4 April 2019 and commenced on 18 April 2019.

This first tranche of reform dealt with technical and procedural matters with the Electoral Act 2004 in line with the first term of reference of the review. The 2019 bill came about as a result of the Electoral Act Review Interim Report recommending that a number of reasonably straightforward technical and administrative changes be made through a first tranche of amendments to commence prior to the Legislative Council election in 2019. The first tranche included the repeal of section 198(1)(b) removing the ban on newspaper advertising, reporting and commentary on polling day and a number of amendments to address difficulties arising from changes to postal delivery times.

We are pleased to be delivering the further legislative reforms as a result of the Electoral Act Review, namely the bill, the Electoral Disclosure and Funding Bill 2022, as well as the Electoral Matters (Miscellaneous Amendments) Bill 2022, which is being currently progressed in the parliament.

The Electoral Disclosure and Funding Bill that I will speak on first includes a new system of disclosure of political donations and electoral expenditure, as well as the provision of public funding in relation to elections in Tasmania. This is significant reform for Tasmania and is understandably a lengthy and complex piece of legislation. The consultation version of this bill was released for public consultation within the first 100 days of this term of government in line with our election commitments. The consultation bill was made available online, along with seven fact sheets to assist stakeholders and the Tasmanian community with the interpretation and understanding of the proposed scheme established in the bill.

In summary, the bill establishes a disclosure regime for political donations and electoral expenditure and provides for two forms of public funding in relation to the House of Assembly. The new systems and requirements in the bill will directly affect candidates in elections of either the House of Assembly or the Legislative Council, members of either the House of Assembly or the Legislative Council, registered political parties, political donors being individuals or organisations who make political donations, associated entities and third-party campaigners.

I will turn first to the disclosure regime. This bill introduces a new far-reaching system of disclosure into the Tasmanian electoral system. First, it is important to explain the definitional matters forming part of this system. The bill defines associated entity and third-party campaigner as these are not concepts currently identified in the Electoral Act. They are, however, entities well established in electoral law, both at the federal level and in other states and territories. An associated entity can be either incorporated or unincorporated and has the following features. It is controlled by one or more registered parties, or operates wholly or to a significant extent for the benefit of one or more registered political parties, or is a financial member of a registered party, or has voting rights in a registered party.

This entity operates for the benefit of a political party and is therefore regulated in largely a comparative way. This ensures that such entities are also accountable for the money they receive as political donations, as well as the election expenditure they incur as part of an election campaign. Associated entities must register with the Australian Electoral Commission, the TEC, if they are to receive political donations or incur electoral expenditure, and are regulated year round.

In contrast, third parties are only regulated during the election campaign period. Third-party campaigners are defined under section 8 as individuals or organisations who are not members, candidates, registered parties or associated entities, and who incur at least $5000 of electoral expenditure during the House of Assembly election campaign period. They must also be registered under section 127 as a third-party campaigner in relation to the election.

The inclusion of third-party campaigners within the new disclosure system recognises the increasing role that individuals and organisations have played in the political environment in Australia in recent times. Again, the regulation in this bill does not aim to limit or deter such campaigners from participating in our democracy, but to introduce transparency as to the influence of these campaigners in the electoral process. Once an individual or organisation qualifies as a third-party campaigner, they are obliged to register as a third-party campaigner, appoint an official agent and nominate a campaign account. The official agent is the individual legally responsible for disclosing all recordable political donations and for completing and lobbying an election campaign in turn -

Mr Valentine - Lodging.

Mrs HISCUTT - Lodging. What did I say?

Mr Valentine - You said lobbying.

Mrs HISCUTT - Sorry, lodging an election campaign in turn. Thank you, member for Hobart.

As mentioned, third-party campaigners are only regulated in relation to the election campaign period of the House of Assembly. Third-party campaigners may also be a charity, representative or community group or business that engages in activities other than the electoral activity regulated by this bill. For example, the new disclosure system does not regulate donations to the charity arm of an organisation that is also a registered third-party campaigner. The system only requires disclosure of political donations, namely money received in order for the campaigner to incur electoral expenditure.

An individual or organisation may elect to register as a third-party campaigner early, or pre-emptively prior to engaging in electoral expenditure. Indeed, this is encouraged. This early registration can ensure that the relationship is established with the TEC and the campaigner is able to ensure its compliance with the requirements under the act as they arise.

To the disclosure requirements of recipients of political donations. The bill also sets out requirements for political donors. The bill introduces the concept of a significant political donor. A significant political donor is a donor who donates $5000 or more to a single candidate, member, third-party campaigner or recipients from the same registered political party during a reporting period. This can take the form of a single donation or a number of donations over the course of the period. Once the threshold of $5000 has been reached, the donor is required to disclose this reportable political donation to the TEC in a similar fashion to the recipient. The bill does not aim to deter people, including donors, from participating in our healthy democracy but rather, aims to ensure that electoral finance is open and transparent.

The bill also introduces the concept of an official agent and a party agent. These individuals are the people legally responsible under the bill for ensuring the compliance of the individual or entity that they represent with the requirements of the bill.

Official agents are individuals acting on behalf of a third-party campaigner, associated entities, independent candidates and independent members and significant political donors. As these agents have fiduciary and legal responsibility, there are some eligibility requirements contained in the bill, including that the person must not have been appointed to an office or position under the Electoral Act of 2004, sentenced to a term of imprisonment for more than two years, convicted of an electoral offence, either in Tasmania or elsewhere in Australia, or been convicted as an adult within the last 10 years of an offence involving fraud or dishonesty.

The TEC also retains a power to determine whether a potential agent is a fit-and-proper person for the role. A party agent, like an official agent, is the person legally responsible under the bill for ensuring the compliance of the individual or entity that they represent with the requirements of the bill.

However, a party agent represents a registered political party and its endorsed candidates. A party agent has the same eligibility requirements as an official agent but with the additional requirement that a party agent must also be a senior office holder of the party. It should be noted that an independent candidate, independent member or a third-party campaigner can choose not to appoint an official agent. They would then operate as their own official agent under the act.

I will now turn to other key concepts: gifts, donations and campaign periods. Other key concepts of this new system include definitions of gift, political donations, reportable political donations and election campaign period.

A reportable political donation is one valued at $5000 or above. The bill also provides that if a number of political donations are received from a single donor in the same financial year, they are aggregated for the purpose of determining if the $5000 threshold has been met.

The bill also recognises the period surrounding election campaigns is a time when it is in the public interest for political entities to be most transparent. Therefore, the bill creates two reporting periods: one around the election campaign period and one for the time outside this period. The election campaign period in relation to the House of Assembly commences six months prior to the last possible date for the House of Assembly election and ends 30 days after polling day. During this election campaign period, all candidates for the House of Assembly election, state-registered political parties, registered third-party campaigners and associated entities must disclose reportable political donations within seven days of receipt. Similarly, significant political donors must disclose reportable political donations within seven days of the donation being made.

The election campaign period in relation to Legislative Council election commences on 1 January of the year of the election and concludes 30 days after polling day. As with candidates in the House of Assembly, during this period, all candidates for the Legislative Council election must disclose reportable political donations within seven days of receipt and significant political donors must disclose reportable political donations within seven days of the donation being made.

In order to further the objects of the bill to establish a fair and transparent disclosure and electorate expenditure, as well as to prevent undue influence, Part 3 of the bill sets down a range of prohibited donations. The bill incorporates a ban on donations from foreign donors. This ban mirrors the provisions under the Commonwealth Electoral Act 1918, thus ensuring a consistent and robust ban on such donations in Tasmania.

In addition, the bill bans the making of donations of more than $100 in the form of cash. This ban aims to prevent the movement of untraceable funds, whilst still acknowledging that candidates and parties still embrace grassroot fund-raising through cake stalls, raffles and small-scale events. Under part three, it is also unlawful for parties or representatives of parties to make donations to independent candidates or independent members.

The bill also provides that when a political donation of over $100 is received, the recipient must record the name and contact details of the donor for the purpose of potential future aggregation and to ensure the donor is not a prohibited donor. Receiving donations without the requisite donor information, that is, receiving an anonymous donation over the value of $100 is an offence under the bill.

I will now turn to elections results. In addition to the disclosure of donations, the bill also provides for the disclosure of electoral expenditure through elections returns. These returns are required to be lodged with the TEC in relation to elections for both the House of Assembly and Legislative Council. In summary, electoral expenditure is defined in the bill as expenditure occurred for the dominant purpose of creating or communicating electoral matters in relation to an election.

Part 7 of the bill sets down the requirements for Assembly election campaign returns in relation to House of Assembly elections. Candidates, associated entities, registered political parties and third-party campaigners are required to prepare and lodge an Assembly election

campaign return with the TEC within 90 days of the polling date in relation to the House of Assembly elections. These returns need to contain the following information; disclosures of all electoral expenditure incurred during the campaign period; disclosure of the details of all the reportable political donations received during the campaign period and disclosure of the total amount of all political donations received during the campaign period.

Associated entities and registered political parties are also required to report all relevant debt information as defined in the bill. The bill provides that even if there are no disclosures to make in such a return, the candidate or entity must lodge a nil return. As many would be aware, Part 6 of the Electoral Act already contains a range of provisions limiting election expenditure and requiring reporting of electoral expenditure in relation to Legislative Council elections.

The Government has committed to ensure a system that continues to be largely supported by members and stakeholders is not unnecessarily disrupted. The bill, however, moves the provisions of the current Part 6 of the Electoral Act into the new bill to ensure consistency and prevent confusion. The new bill does not alter the following existing provisions in relation to the Legislative Council candidates.

They are:

- candidates in Legislative Council elections will continue to have an expenditure cap in the same form and of the same quantum as under the old Part 6;

- political parties or other individuals or groups are prohibited from incurring electoral expenditure on behalf of a Legislative Council candidate;

- candidates in Legislative Council elections are required to submit a return outlining their election expenditure to the TEC within 60 days of polling day;

- candidates in a Legislative Council election may nominate an agent to act on their behalf in relation to election expenditure.

Under the bill, new requirements for candidates and members of the Legislative Council are as follows:

- candidates and members will now need to comply with the year-round requirements in relation to disclosure of political donations;

- the election return requirement for Legislative Council candidates will now need to include total donations, as is the requirement for the House of Assembly;

- an agent acting on behalf of a candidate in a Legislative Council election is now an official agent rather than an election agent. The official agent must comply with the requirements for the official agents provided for in the bill;

- a candidate in a Legislative Council election must have their own campaign account. All political donations must go into this account and all election expenditure must be spent out of this account. This is also consistent with House of Assembly requirements; and

- if a candidate in a Legislative Council is endorsed by a political party, the candidate may elect to use the party agent. The party agent must, however, still only use the candidate's campaign account in relation to that candidate.

Mr President, I now turn my mind to the public funding system. The bill also establishes a new public funding system in relation to state elections. There are two components to this system. First, there is a provision for public funding of candidates and parties involved in House of Assembly elections, based on formal first preference votes, to reimburse for electoral expenditure. Second, there is a provision for the payment of administrative funding to register parties with endorsed members in the House of Assembly, as well as to Independent members of the House of Assembly.

Part 11 provides for public funding to reimburse candidates and register political parties participating in House of Assembly elections. This funding aims to assist registered parties and candidates with their ability to get their message to the community, and to reduce the reliance of registered parties and candidates on fundraising and private donors.

The system established in Part 11 calculates eligibility for this funding based on the formal first preference votes received by a candidate in a House of Assembly election. Any candidate who is elected or receives 4 per cent of the formal first preference vote is eligible for public funding. If a candidate is endorsed by a registered party at the election, the funding is paid to the registered party. If the candidate ran as an Independent candidate, any funding is paid directly to the candidate. The maximum rate of public funding is $6 per formal first preference vote received by the candidate.

To ensure that this funding does not act as a windfall, the funding is based on reimbursement via a claim process. A party or Independent candidate must submit a claim to the TEC outlining the election expenditure incurred during the election campaign. The amount of funding paid is the lesser of the claimed amount and the entitlement. The TEC will have the ability to either pursue overpayments as a civil debt or, alternatively, withhold future funding entitlements to the extent of the overpayment.

The second part of the public funding system within the bill is administrative funding. This system is set down in Part 12. This funding is available to registered parties with members of the House of Assembly, as well as Independent members of the House of Assembly.

Administrative funding has been included as part of the bill to reflect the increased administrative burden faced by parties with members of parliament and by Independent members due to the disclosure and reporting requirements of the bill. A tiered system of administrative funding has been provided for based on the number of MPs a party has endorsed:

- a party with six or more endorsed members is entitled to $33 055 per quarter;

- a party with between two and five members is entitled to $19 282 per quarter;
- a party with one endorsed member is entitled to $9641 per quarter; and
- an Independent member is entitled to the same amount as a one-member party, namely $9641 per quarter.

As with per vote funding, this funding is by reimbursement and is capped at the actual expenditure of the party or member on relevant things. The bill sets out a description of the type of expenditure that can be claimed as administrative expenditure for the purposes of claiming this funding.

Both funding systems will be administered by the TEC from the Election Campaigns Fund and Administration Fund, which are established by the bill. The TEC has appropriate compliance and enforcement powers to ensure these funding systems are accountable and fair. This includes the ability to audit, or retain a qualified auditor to audit, any claims for funding.

To ensure the effective operation of the disclosure requirements and funding system, the bill also contains a range of enforcement, compliance, investigation and offence provisions.

The bill provides the TEC with the capacity to investigate and prosecute a range of offences relating to requirements under the bill. This includes the capacity to not only prosecute agents for failing to meet requirements but also others, including candidates who provide information which they know, or ought to have known, is false and misleading in a material, particularly in that it is of significance and not trivial or inconsequential.

The act also provides for a course of conduct or 'scheme' offence. This is where a person engages in conduct deliberately aimed at circumventing a requirement or prohibition under the act.

I now turn to the publication requirements. The bill recognises the importance of full and timely publication of information. The TEC has the obligation under the bill of ensuring that a range of information is provided online within reasonable time frames. Online publication is required by the bill for the following type of information:

- all registers established under the bill;
- all guidelines issued by the TEC;
- all claims for both forms of public funding;
- all donation disclosures; and
- all election returns.

The TEC retains the capacity to decline to publish a document or part of a document where the TEC has reason to suspect the information is vexatious, false or misleading. The TEC will also continue to provide access to information in hard copy at their office during business hours. Availability of both the online and hard copies of these documents must be maintained for six years.

In regard to consultation, the Electoral Disclosure and Funding Bill 2022, along with the Electoral Matters (Miscellaneous Amendments) Bill 2022, was released for public consultation for a period of five weeks from 24 August 2021 to 28 September 2021. The bills were available via the Department of Justice website, along with a variety of fact sheets, to assist in understanding the provisions of the bill.

In addition, a wide range of stakeholders and interested parties were contacted directly to advise them of the bills. This included: all the registered parties in Tasmania; all individuals and groups that had previously made a submission on the review, where contact details were available; all current members of both the House of Assembly and the Legislative Council; the University of Tasmania; the Tasmania Law Reform Institute; the Integrity Commission; the Law Society of Tasmania; the Tasmanian Bar; the courts; and media outlets, amongst others.

Mr President, this is an important reform that has a lot of community and stakeholder interest, and I take the opportunity to thank all those people and groups who made a submission and participated in this important and complex review. All feedback and submissions received have been taken into consideration when finalising the bills for parliament.

The reforms being progressed through these bills strike an appropriate balance in increasing transparency and fairness - which is the right thing to do, to ensure that the public continues to have confidence in the outcomes of elections into the future.

It is important that Tasmanians have confidence in our electoral system and therefore we must ensure it applies to everyone who participates in the political process. It is critical to get these settings right, and the Minister for Justice is confident that these bills deliver a fairer, more transparent and modern electoral system for our state.

Mr President, in closing, we are confident that these bills strike a good balance. I commend the bill to the House.

Debate adjourned.

ADJOURNMENT

[5.52 p.m.]

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

> That at its rising the Council adjourn until 11.00 a.m. on Tuesday, 5 September.

Motion agreed to.

Mrs HISCUTT - Mr President, I move -

> That the Council do now adjourn.

King Island - Safe Harbour at Grassy

[5.52 p.m.]

Ms FORREST (Murchison) - Mr President, I wish to make a statement on the adjournment regarding the latest response from the Leader to my questions relating to the all-weather safe harbour at Grassy on King Island.

In my most recent question I reiterated previous advice the Leader had passed on in answers to my earlier questions. I noted that in previous answers TasPorts had advised the Leader that there is no demonstrable need for a second safe harbour at Grassy, and nor is there a demonstrated need to develop a master plan for Grassy Harbour. The Leader was advised that the port of Grassy already has additional capacity beyond its current freight task, and that TasPorts would only review the position on the need for an additional safe harbour if demand were to significantly increase.

To give some context to my comments, my questions at that time were:

> (1) Do the Government and TasPorts stand by this comment, when there has been documented evidence of an inability for both the Bass Island Line vessel, the *John Duigan*, and vessels owned by Eastern Line Shipping, that have been denied access to the Grassy Port? They had to inform their customers on King Island, who had stock awaiting transport at the port that had to be returned to farms to 'try again tomorrow' on account of the weather conditions.
>
> (2) If so, on what basis does TasPorts make the claim that the current Grassy harbour is an all-weather safe harbour?

The Leader's response was:

> To be clear, TasPorts previously advised that these vessels have not been denied access to the Port of Grassy. Some vessels have experienced delayed entry, with TasPorts facilitating access at the next earliest and safest opportunity. There are acknowledged environment and weather-related safe port parameters that TasPorts and visiting vessels need to adhere to, that can restrict the times at which a vessel can berth and safely stay alongside. These include daylight hours of operation, tide, wind and surge, but these are not unique in a port context.
>
> The answer previously provided also emphasised that sailings of livestock or cargo are appropriately subject to a decision by the master of the vessel, who is responsible for the safe welfare and transit of the animals on board in accordance with Tasmania's Animal Welfare Guidelines. These decisions by the vessel master are made in consideration of sea conditions on Bass Strait, rather than simply the conditions at the Port of Grassy.

Mr President, I am not sure that the Government truly understands the importance of the beef industry coming off King Island, when they say that vessels are only delayed in getting access to the Port of Grassy in inclement weather conditions.

Feedback I have received from a key livestock vessel operator, Eastern Line Shipping, who incidentally provides significant community support to King Island, has provided me with the following advice. This is from Eastern Line Shipping:

> As we are directed by VTS TasPorts if we can enter the port only when our vessel is situated at the Grassy Port limits, only then will they allow access or deny access due to wind, swell or daylight visibility.

Mr President, they have already crossed Bass Strait by this stage - or half of it:

> On average, our vessels at port limits around 7 a.m. If VTS deem the port to be unsafe to continue to enter the port, we would be told to stand off until such time as was considered to make safe passage into the port. This at times could be some four to eight hours, depending on wind strength and direction, swell height and tide.
>
> On average, each trip Eastern Line Shipping carries 11 empty cattle trailers over to the island from Greenhams to be filled with cattle, brought back to Stanley and processed at Greenhams Plant in Smithton, which employs some 230 meat processing workers at the plant.
>
> When an Eastern Line Shipping vessel is denied or delayed access to the port due to weather conditions in the port, Greenhams MSA grading is in jeopardy. This is evident when cattle need to be transported say from Cape Wickham due to the time frame it takes to get the whole 11 trailers from the wharf to the farm and back to the vessel.

For those who are not familiar with King Island, this journey takes over an hour each way in a regular vehicle and does not include time to load cattle. The Meat Standards Australia grading program is a very important cost point for the producers. The MSA Greenhams run is worth some $2 million extra to farmers on King Island and the King Island economy each year.

Any delay or refusal into the Port of Grassy has a flow-on effect, not only to Eastern Line Shipping, such as wages, port costs, extra fuel used to make it back to Stanley in time for processing and lost production at the processing plant. Delays, which are not infrequent, are and will continue to be detrimental to this shipping company and Greenhams MSA grading program.

When I am told by the Leader that sailings of livestock cargo are appropriately subject to the decision of the master of the vessel, who is responsible for the safe welfare and transit of animals onboard in accordance with Tasmanian Animal Welfare Guidelines, and that these decisions by the vessel master are made in consideration of the sea conditions of Bass Strait rather than simply the conditions of the Port of Grassy, I cannot help but feel frustrated on behalf of my constituents that we are not being heard.

The vessel can get to King Island. The decision of the master is to take the vessel from the Tasmanian mainland to King Island, obviously having dealt with Bass Strait and considered the Bass Strait conditions and having met the requirements for safe passage in accordance with Tasmanian Animal Welfare Guidelines across Bass Strait, but it cannot access the Port of Grassy as it is not an all-weather port.

I do wish to comment further on the second part of the Leader's response when I asked a question with regard to her comments where she stated:

> I am further advised that following a recent visit to King Island by Cabinet, the Government agreed to a review a feasibility study conducted in 2008 for the King Island Council and the former King Island Port Corporation for the future expansion of the Grassy Port.

Mr President, that is good news. They are going to look at the 2008 report and I absolutely look forward to that. The Leader did note the cost of the port upgrade at that time in 2008 was $40 million. Previously, not long before that, it was $21 million. To compare apples with apples, this was looking at a completely different proposal to what has been proposed now, with the use of the overburden by Group 6 Metals mines. It is a completely different consideration that should be made now. You can look at what happened in 2008, but we need to have a look at what is possible now in 2023, heading toward 2025-2026 when the overburden becomes available.

The Leader said that Government will review this study in light of changes to the King Island economy, population, changes in market and shipping services to and from the island. The Government should also consider the future needs, opportunities and the need to future-proof this critical link between King Island, mainland Tasmania and mainland Australia. It is about the future, not just looking at the past.

My questions that I hope the Leader will take forward are: will the Government consider the future needs, opportunities and the need to futureproof this critical link between King Island, mainland Tasmania and mainland Australia under this review? If so, what will the time line for this review be and the time line for the review currently underway - stated to be underway? Further, how will members of the King Island community engage with this review? Does the Government, after the recent Cabinet visit to King Island - I am not asking about TasPorts here, we understand that - but does the Government currently consider the Port of Grassy an all-weather safe harbour port?

I have asked these questions again on behalf of the Tasmanians who live on King Island, who visit King Island and who significantly contribute to Tasmania's economy and I look forward to a response to those questions.

The Council adjourned at 6.00 p.m.