



**PARLIAMENT OF TASMANIA**

**LEGISLATIVE COUNCIL**

**REPORT OF DEBATES**

**Wednesday 1 June 2022**

**REVISED EDITION**



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**Wednesday 1 June 2022**

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

**YOUTH JUSTICE AMENDMENT (SEARCHES IN CUSTODY)  
BILL 2022 (No. 9)**

**Third Reading**

[11.04 a.m.]

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

That the bill be now read the third time.

**Bill read the third time.**

**LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2022 (No. 28)**

**First Reading**

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

**SUSPENSION OF STANDING ORDERS**

**Pass All Stages -**

**Local Government Amendment (Elections) Bill 2022 (No. 28)**

[11.05 a.m.]

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

That so much of Standing Orders be suspended to allow the bill to pass through its remaining stages at such time as the Council may appoint.

In speaking to this motion, Mr President, I will call upon some words from the minister.

This legislation time line is necessary to enable time to design and implement an appropriate information and education program to inform the public of the new requirements of this year's election, if the legislation is passed. This will give time to educate the public on what all the changes will be. If the Government had delayed introducing the bill, we would have to wait for another four years before the next Council elections.

If a further period of public consultation had been provided, this time line would not have been met. The minister's view has been that this issue has been well canvassed over many years and the substance of it is well understood. The feedback that the minister has received

to date on the Government's legislation has been broadly supportive. The minister has recognised that there were limited opportunities for LGAT to comment on the draft legislation, and he has publicly noted this in the briefings to members when he came to speak to us.

However, it is important to put the Government's consultation with LGAT on record. The minister went with the president of LGAT and Mayor of West Tamar Council, Councillor Holmdahl, and the vice president of LGAT, the Mayor of Break O'Day Council, Councillor Tucker, nearly four weeks ago to explain the Government's proposed legislation.

He subsequently wrote to LGAT's general management committee members explaining his reasons for this legislation, and this committee also includes a number of other mayors. A working draft of the legislation was provided to LGAT for consultation and feedback at that time. The Division of Local Government also met with LGAT.

I advise members that this bill was passed in the House of Assembly last night. It was passed unanimously and without amendment with the support of all members including the Liberals, Labor, the Greens, and the two Independent members.

In the debate last night, the minister put on the record that he recognised the process was not as he would have wanted it. He said, and I will quote from *Hansard* because these are the minister's words:

I acknowledge the good faith from everyone's contributions to this and acknowledge that there is support across the Chamber for this reform. In the spirit of good faith, I admit that as my first bill through this parliament as a minister, this is not how I wanted it to be.

Ms Dow made the point that when speaking to local government members, they wanted an assurance that there would be no rush on future reforms. I give that absolute commitment that the next tranche of reforms will not be rushed into here, nor will they be rushed through here. They will be done in consultation with the local government sector. As much as is possible, they will be done in consultation with everybody in the business community, private citizens, other members of this place, other members of the other place. We will bring forward a tranche of reforms that has been widely consulted to make sure that we get local government to where we want it to be.

...

... The other thing that you raised, Ms Dow, was the public awareness campaign. That is the other reason for bringing it through now. While the elections are not until late September or early October, in order to frame the public awareness campaign, get it out to the community and make sure it is effective, we needed to get this legislation through and confirmed this week so that we can ensure the public campaign is as widespread as possible. It is an important reform and the only way it works is if people are aware of their new commitments or their new rights. We want to make sure that the public campaign hits the mark.

... If members of local government - staff or elected members or anybody else with an interest in local government - are watching tonight, the one thing I hope they take away from this is that this was not me cherry-picking the low-hanging fruit in local government reform. I was a member of local government for nearly five years myself - I understand that the pressures that existed back in 2011 to 2016 when I was a member have only become more severe, and that we need a suite of reforms to get local government to where we want it to be. From listening to everybody's contribution to the debate, everybody has acknowledged that we have work to do. However, they also acknowledge that local government is an extremely important tier of government and we need to work hard to make sure it is perceived by the community to be as important as federal and state government.

These are words last night from the Minister for Local Government, Mr Street. He has explained why we are doing what we are doing. I hope members will take that on board and get this education program going as soon as possible and get this compulsory voting up and running.

[11.11 a.m.]

**Mr GAFFNEY** (Mersey) - Mr President, I wish I had listened more to the member for Murchison when she used to stand up about the suspension of Standing Orders.

I did listen. I wish I had it in front of me.

Whilst I hear what the Leader has to say about the approach from the minister regarding this issue, I will not be supporting the suspending of orders because I am aghast that in the other place I do not think they even had a representation from the president of the Local Government Association or the CEO regarding this legislation.

We found out this morning that they were consulted on 5 May without any prior warning, any attempt, and here we are rushing this through. I do not know how other people feel. I am late to the meeting because I am trying to put into my second reading contribution the information I received this morning from the President.

We have Estimates next week, we have had Budget responses this week, and here we are squeezing this in and rushing this through. For the minister to say that they respect this sphere of government so much that we do not even respond to them, and respect them enough to have a conversation about something that is fundamentally in the parameter of local government - here we are, mature adults, stepping in and changing local government. You have not got it right for the last 20 years. So we are going to push this on a bit, then there is a review.

This is a rushed process. I will not be supporting it. I do not think it is necessary. It makes me a little angry and I do not get annoyed very often, but I am annoyed now that I am placed in this situation where I have not had a chance to consult with the local councils I represent.

When I hear things like 'there is broad acceptance'. If you went out to the people today and said, do you want another election where you have compulsory voting, I am not sure if

they are going to say yes. Some people would say, actually, I prefer voluntary or optional voting because the people who want to vote, will vote, in those elections.

Again, it is that sphere of government that needs to be directing this, not this sphere of government coming over the top, impinging on that sphere of government. It is actually quite disrespectful. I was comfortable with the review process sent to us on 15 March this year by the minister Mr Ferguson, saying the review process, undertaken by the board with Sue Smith in charge will be doing this, this and this which includes compulsory, which includes one to five, which includes all the things.

Why are we not waiting for that process? There is no need for this to be rushed through, and we are going to rush it through so we can do a good education program by October or September elections.

What a nonsense. Why can they not do it in 2026 when it is the next local government elections? Why do they have to rush it through this year?

I would encourage us not to enter into this debate, but I fear with the open acceptance downstairs of this legislation, it will be coming back here for a second reading speech in a few minutes. I will not be supporting this suspension of Standing Orders.

[11.15 a.m.]

**Ms WEBB** (Nelson) - Mr President, I rise to put on the record I also will not be supporting the suspension of Standing Orders on this. Similar to the member for Mersey, I feel I need to make a couple of brief comments on why I will not be doing that.

Essentially, at heart, it is because there is a very deep and disturbing irony in the idea that we are bringing through legislation to strengthen democracy in one tier of government in such a manner that we are thwarting the proper process of democracy and of parliament as we do it. There is a reason we have a way that bills are brought to this place, and conducted through this place - time frames, consultation - all those proper processes that sit around good, robust legislation with appropriate scrutiny, review and consideration as it comes through here. In this case, we are being afforded none of the courtesy of any of those accepted and appropriate processes with this bill.

It may well be that every person in the other place and every person in this place supports every element of this bill but it is still not the right way to be going about it.

The disturbing thing about waving it through this time and allowing this thwarting of proper democratic and parliamentary process is that once you have done it, that can easily then be done again and point to this example of having done it the once. The next time it happens, it might be that there is not such complete agreement on the content of the bill that is being rushed through and we might all feel even more uncomfortable about the content of a bill in future that is brought through and rushed through a democratic and parliamentary process. That is the crux here. It is not necessary. There are various ways the Government could have chosen if it was that important to be done ahead of the October elections.

The Government could have simply chosen to do some extra sitting days later in June to deal with it rather than to rush it through in the midst of this budget process and budget time. Another way, given everything going on in local government, the local government elections



could well have been delayed by a 12-month period. I believe there were calls for that for other reasons relating to the overall review.

There are various ways this could have been achieved ahead of the next general election for local government. Different to this process where we have a bill landing on us one week ago, landing on the local government sector broadly only one week ago, because although the LGAT president and vice president were briefed on 5 May, they had to keep that confidential. The whole sector only heard about it by media release a week ago.

I do not support the suspension of Standing Orders on the principle that appropriate process is important. You cannot, on the one hand, claim to champion robust democracy, while you are thwarting it with the process by which you do that.

I will not be supporting the suspension of Standing Orders. I suspect we will be going ahead with this today, which is unfortunate. I will certainly give consideration to the bill in that context, but I want it on the record that this process is wrong.

[11.18 a.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I will support the suspension of Standing Orders, that is not to say that I will support the bill when it comes before us. The reason I support the suspension of Standing Orders is because if I do not it is going to come up in three weeks time anyway. It is not as if we are not actually going to deal with it, whereas concerns are more around the appropriate process of consultation and other matters that have actually come to us.

Speaking to LGAT, the member for Nelson said there are other avenues that could have been taken with the bill such as, as advised by LGAT and the review, putting it off 12 months to bring everything in. While I am happy to support the suspension of Standing Orders, mainly because if we do not deal with it today, we can certainly deal with it at the next sitting week, it is not going to change the issues I actually have with the bill. I will be supporting suspension of Standing Orders.

[11.19 a.m.]

**Mr VALENTINE** (Hobart) - Mr President, I am sure I know which way I would be going with this bill if it was to come before us. We are dealing with a sphere of government, not with a particular sector of industry in the social space.

There are communication protocols under the Premier's Local Government Council. Those have been put together in good faith and that requires a number of weeks for matters like this to be brought up and to be dealt with through due process. The reason why is that each of the members of that council have to go back to their own councils and discuss it, develop a position, and bring that back for consideration.

Even though compulsory voting might have been before the Local Government Association over many years, that position, especially of a one-to-five, has not been tested since the last election. The communication protocol is important. We need to recognise that we are dealing with a third sphere of government. That does not make it any lower or higher than state government; it is a sphere of government and it needs due respect.

I take the point made by the member from Nelson. It is odd that we are talking about increasing the democracy of local government voting, but at the same time we are not affording reasonable democracy in the way we have been dealing with the bill. I can see the way it has been handled through the other place. However, we are not the other place, and we need to deal with it in the most democratic way, and show respect for that other sphere of government. I will not be supporting the suspension of Standing Orders.

[11.22 a.m.]

**Ms FORREST** (Murchison) - Mr President, I have a few comments that are directly related to the motion before us - not to the bill.

There is a constant request, and it has been constant more recently, for this House to ignore or overlook our proper processes to deal with legislation, always on the claim that it is urgent. Recent legislation that comes to mind is when we were dealing with the Forest Practices Authority. This may seem slightly off the task but I want to tell you why I believe we need to be very cautious.

During the briefings and even during the debate, we were informed there was really only one case that was on foot regarding the delegation authorities under that act. If anyone heard any differently please correct me now, because what I am going to say next contradicts that. I am pretty sure I am on solid ground here. I now know that one of the members of the other place had a case on foot related to delegation authority and we were in this place, rushing through legislation related to that very question. I am getting a bit sick and tired of being told that things are urgent, and we are getting the full picture.

I put that out there because, by the powers, the Government needs to get their house in order. The timing is not of our doing. The Government sets the sitting schedule. They know what happens in budget session. They know that for the budget wrap-up they sit one week and we sit the next, because we cannot wrap up the budget together in the same week. I had to explain that to the Minister for Local Government the other day. He was saying that we should probably sit together. I said that would work well - except it doesn't. We simply cannot, unless we are going to ignore the process around the Budget, and that would be a very sad state of affairs.

The timing is not of our doing. The Government set the schedule and they also knew the election was coming in October 2022. About four years.

We have also had, not of our doing, a revolving door of ministers. This is what I found particularly confusing in the briefing, and even listening to the Leader when she read out the minister's comments from the other place. I appreciate her doing that, because I have not had a chance to look at his comments.

The Leader noted that there was a limited opportunity for the Local Government Association of Tasmania (LGAT) to comment. He accepted that. I am quoting what the Leader said were the minister's comments.

We were informed in the briefing that on 5 May there was a meeting with the new minister and LGAT representatives, Councillor Holmdahl, and the mayor of Break O Day, Mr Tucker. They went along on the premise that it was to meet the new minister and to talk about, as I understand it, matters that they saw as priorities for this coming election in 2022.

Their priorities included the vote-saving measures that are included in this bill, particularly the one-to-five voting, to try to address the unfortunately high rate of informal voting. They said they were not told about this. However, when I was listening to the Leader's contribution, quoting the minister from when he was speaking in the other place, he said they were provided with a working draft of the bill.

I would have thought a working draft would have included compulsory voting in elections as well as the other vote-saving measures that are in the bill.

I am very confused about who has had what information and when, because that is not what we heard in the briefing.

**Mrs Hiscutt** - Through you, Mr President. The minister has recognised there is limited opportunity for LGAT to comment on the draft legislation.

**Ms FORREST** - I accept that. But he did say they were provided with a working draft of the bill. I do not believe he said when that occurred.

I would be very interested if the Leader might be able to get some advice about when they were provided with this working draft. That would have included the provisions that are quite contentious here, particularly the provisions about compulsory voting.

**Mrs Hiscutt** - Through you, Mr President. The draft bill was forwarded to them straight after the meeting on 5 March.

**Ms FORREST** - But it was confidential. They were not allowed to discuss it with their members.

**Mrs Hiscutt** - That is true.

**Ms FORREST** - Well, that makes it awkward, doesn't it? We all understand and respect what a confidential briefing means. You do not talk to other people about it. It was not a surprise to two people, or should not have been; but it would have been a surprise to all the others.

You can see why this is a problem for me, Mr President.

We know, from the briefing this morning, that it is a contested space. It has been debated over the last 20 years, or thereabouts. At local government there have always been differing views, and I note in the *Circular Head Chronicle*, on 1 June 2022, that there continue to be differing views in my electorate of Murchison, which has five councils. Naturally, you are going to have differing views.

The Circular Head mayor, Daryl Quilliam, said he would suggest that most of the Circular Head councillors - I do not know about the people of Circular Head, but he said the councillors - would not support compulsory voting. If someone is not interested in voting, there is not much point making them vote. I respectfully disagree with the mayor on that point, because that is the whole purpose of ensuring everyone gets a voice. You make it compulsory. With all due respect to all the people who may choose to vote informal or go to get their name ticked off, or return a blank ballot paper, or whatever they like.

However, we are disenfranchising disengaged people without compulsory voting, and there is my conundrum.

Other mayors in my community have said they support it. I did a mail-out to all of my five councils as soon as I saw this hit the deck. I did not hear from all of them, but those from whom I did were mixed but mostly in support.

In principle, I have supported the notion of compulsory voting for some time, but I do not want to go down into the detail of the bill, because that is the detail of the bill in many respects, but it is a contested space.

I absolutely acknowledge the comments from the members who have already spoken about the lack of respect that has been shown to another level of government, and that the Government should have done that in a more robust way. I also accept if we do not deal with it this week - and I accept what the member for Launceston said - it will be brought on in two weeks time. That is problematic in that if the member for Launceston indicates she had some problems with the bill - I am not sure if that goes as far as suggesting amendments - if there was to be an amendment in two weeks time, then the lower House do not sit until after the winter break. That is problematic, but again, we did not set the sitting schedule.

Here we are again being asked to make a decision about whether we pursue important legislation without proper process in this place. I did ask in the briefing if we could separate the two key concepts: the compulsory voting and the vote-saving measures. If we want to quote Kevin Bonham in his blog - that is sometimes a little hard to understand, but on this occasion was fairly clear - there are real issues with informal voting and the clearer you can make it for people who are engaging in our democratic processes, and not inadvertently voting informally, then that is a really good thing. Those are important measures as we know this is a problem.

I will, unusually, support the suspension of Standing Orders to enable the bill to at least be considered. There are many other points we can stop this. We could stop it during the second reading, we could stop it at the end of the second reading should the principle be agreed, we could stop at any point during the Committee stage if it becomes clear that these things need to be resolved in a different way.

I am going to give the Government a chance here to really make their case, but I am really getting sick of this. I do not know how many times you have to say it, but when we were basically told in that last urgent bill that there was only one case on foot it was an out-and-out inaccurate representation of the facts. I am horrified that we were a part of that and that is a disgraceful position to put this place in.

We are not dealing with the same sort of issue here, but it is the Government's approach in recent times to ram things down our throat when there are proper processes. If we get into the bill, the numbers are all over the place at the minute. There is a lot more that needs to be said around that. As far as this bill goes there are certainly aspects of it that should be progressed. If we do not progress them now, and if the bill does need to be amended to remove certain sections of it, we need to do that this week not in two weeks time.

It has put me in a really difficult position and the Government should feel very grateful I am not having a bigger smack about this and saying absolutely not, go away, but it is getting close to that, regardless of the urgency.

**Mrs Hiscutt** - Whilst the member is on her feet, I will make a point of telling my team that procedure is important in our place, again, and make that point to them. To reiterate, Mr Street did say this is not how we would have preferred it.

**Ms FORREST** - Yes, and he said that directly to me and I accept that. He took over allegedly after all this body of work had been done. However, when I asked the LGAT representatives across the table this morning if all this work was done and it was then handed to the minister, Mr Street, when he took over - I am not sure on what day that occurred, that the information was handed out - but who was that work done with?

Obviously, the department in Local Government had done a lot of work otherwise we would not have a bill before us. We understand how long and tortuous the process of getting something through Cabinet is, not personally, but I am told. Obviously, there was work done, so I find it staggering that the local government sector was not part of getting the work done if it was to include compulsory voting. Again, I am hearing different stories from different stakeholders and it makes me really uncomfortable about where the truth lies.

[11.35 a.m.]

**Ms LOVELL** (Rumney) - Mr President, I will be supporting the suspension of Standing Orders. I want to put that on record straight away. I want to make the point that while the bill was supported by Labor in the other place, there was no requirement to suspend Standing Orders for that debate to take place. Caution against making assumptions that support for a bill does not necessarily mean automatic support for a suspension of Standing Orders, because we do take our processes very seriously in this place. Those processes are in place for a very good reason and we do consider that when we consider each of these requests for suspension put to us. We do that on a case-by-case basis.

In this case, it is refreshing to hear the minister admit that the process has not been the way he would like it to be. I hope that level of honesty from this minister continues because we do not always hear that. Sometimes the excuses we hear are pretty transparent. I am pleased to hear him be open and up-front about that because it is not ideal, we all know that. This is not ideal, but it is a bill we support. We support the principle of compulsory voting. If this bill is to be supported by the Chamber and by the parliament then, as other members have said, it is better to do that now rather than in three weeks time or after the winter break. The amount of time then for any kind of education campaign that is going to be a critical part of the success of this would be significantly hindered.

I will support the suspension of Standing Orders so that we can have the debate because if the bill is to be passed we need to allow as much time as possible for that education to take place.

[11.37 a.m.]

**Ms RATTRAY** (McIntyre) - Mr President, I am in the minister's camp. This is not what I prefer either, having to deal with this today. I have six local government areas to have that engagement. I have had some responses from five of those six, although none of them have had a chance to take it to the council table.

On the question that is being put on the suspension of Standing Orders, at this stage I am very slightly persuaded to support the Government's request but preface that by saying that by no means does that indicate my support for the bill to proceed any further beyond the second reading speech. I take on board what the member for Murchison has said, that there are number of opportunities to halt this process post what we might do by supporting the suspension of Standing Orders.

The more that I am listening to the member for Murchison and others in the Chamber, there certainly needs to be a message to your team, Leader. I am sure you do deliver it from time to time, but it appears it is not getting through. You might need to use the rest of your team to enforce that message that this is not how we do our business. We do not want to be constantly put in this position. I will support, but only on very cautious grounds.

**Mr PRESIDENT** - The question is that Standing Orders be suspended.

**The Council divided -**

**AYES 11**

Ms Armitage  
Mr Duigan  
Ms Forrest  
Mr Harriss (Teller)  
Mrs Hiscutt  
Ms Howlett  
Ms Lovell  
Ms Palmer  
Ms Rattray  
Ms Siejka  
Mr Willie

**NOES 3**

Mr Gaffney  
Mr Valentine (Teller)  
Ms Webb

**Motion agreed to.**

**LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2022 (No. 28)**

**Second Reading**

[11.42 a.m.]

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

That the bill be now read the second time.

Mr President, I will take that message about procedure back to my colleagues. I am sure Ms Palmer, as minister, has got the message.

This bill introduces an important democratic reform for the long-term success and renewal of our system of local government. Local government impacts all Tasmanians. Our 29 councils manage \$12.1 billion worth of infrastructure assets. They have invested

\$1.19 billion in capital over the past four years, employ approximately 3300 full-time equivalent staff and raise around \$740 million in own-source revenue each year.

Councils make decisions about the footpaths, local roads, parks and recreational facilities that the Tasmanian communities depend upon, and deliver the important waste, regulatory, wellbeing and community services that we could not do without. It is extremely important that councils reflect and understand the breadth and diversity of the communities that they represent. That is why today, the Government is taking the very significant step of introducing compulsory voting for local government elections. This reform will bring local government into alignment with state and Commonwealth elections.

Compulsory voting is characteristic of Australian democracy and underpins the very high and consistent participation of Australians at elections. We know that Tasmanians are enthusiastic voters who are passionate about our democracy. At the last federal election Tasmanians were more likely to vote than Australians in any other state.

Most Australians are required to vote at their local council elections. Compulsory voting is established in New South Wales, Victoria, Queensland, along with the Northern Territory. The benefits of this measure are clear as those three states achieve voter turnout for their local government elections much higher than in Tasmania, in the order of about 80 per cent participation in recent elections.

By contrast, in 2018 statewide turnout at Tasmania's council elections, including the Glenorchy City Council elections held separately, was 58 per cent, and in 2014 turnout was under 55 per cent. The statewide numbers alone are not the best argument for reform.

Mr President, I acknowledge that rural councils have achieved reasonably high turnout under optional voting, which speaks to the connectedness in Tasmania's regions and towns that smaller councils know so well, but Tasmania's cities are not as successful. In 2014, participation within two large urban councils was below half of its eligible voters. Without taking the definite step to introduce compulsory voting, we cannot be confident that local representation for Tasmania's urban areas best reflects the diverse and changing communities that they serve. In this context, the ministry is pleased to note the longstanding support and advocacy for this reform from the Hobart City Council.

This reform may seem unexpected to some stakeholders and communities. However, with a view towards the local government's elections scheduled for September and October of this year, the Government considers it opportune and urgent to act to introduce compulsory voting now. Otherwise, the democratic benefits of this worthy measure will not be realised until a future electoral cycle some years into the future.

While compulsory voting will doubtlessly attract a range of views in the community, this Government is also of the view that the issue is well understood, and that further discussion would not be necessary or beneficial. Parliament, councils, other stakeholders, and the community, have all participated in the public conversation about this issue in the past decade, including legislative debate. Government considered the arguments put by councils and other stakeholders informing its decision to proceed. It could be argued that compulsory voting for Tasmanian local government elections is overdue.

I am informed that the people of New South Wales have been required to vote in council elections since 1947. The Local Government Amendment (Elections) Bill provides for a compulsory voting framework very similar to that for elections for the Tasmanian parliament. I note this framework is also similar to that proposed by those sitting opposite in the 2013 Local Government Amendment (Elections) Bill.

Importantly, compulsory voting at local government elections will apply for the same people required to vote at state and federal elections, namely, people enrolled on the House of Assembly roll, for the residential address in the electoral area. This means no changes proposed at this time for the additional classes of people able to vote at local government elections through voluntary enrolment on the council general manager's roll.

The bill establishes that a person enrolled at an address in the electoral area must vote at an election, and establishes an offence for failing to vote without a valid and sufficient reason. 'Valid and sufficient reason' is defined in the manner of the Electoral Act 2004, including providing for those with objections to voting on the basis of their faith.

The bill provides for the Electoral Commissioner to issue failure to vote notices and follow-up notices, and to consider reasons provided for an elector's failure to vote. Electors who fail to vote and who do not provide reasons that are not accepted by the commissioner are able to pay a fine of 0.2 penalty units, which is \$34.60 in 2021-22. The Electoral Commissioner may issue an infringement notice of 0.4 penalty units, which is \$69.20 in 2021-22, where this fine goes unpaid. Persons may elect for the matter to be heard in a court or the Electoral Commissioner or the Director of Public Prosecutions may commence proceedings, in which case a fine of up to 1 penalty unit may apply, which is \$173 in 2021-22.

Importantly, the bill provides for the commissioner to not issue notices in cases where an elector is known to have valid and sufficient reason for their failure to vote, which will provide protections for members of the community who are disadvantaged or hindered in their ability to participate in a specific election.

The Government expects, as a result of this measure, tens of thousands more Tasmanians will have their say at local government elections and this number will rise over time. This large democratic dividend should flow through to improve more responsive, local decision-making and will reconnect councils, especially in urban areas, with the communities they serve.

The cost associated with enforcement is expected to be defrayed by the payment of failure to vote penalties. While this will have a negative impact on those who do not return their ballot, the initial failure to vote fines in Tasmania in the Electoral Act in this bill are low, compared to those in some other states.

The Government acknowledges that Tasmanian communities must be informed about the measure prior to elections later this year. For this reason, a significant public information campaign is planned. This campaign will stress the importance of all Tasmanians keeping their electoral enrolment up to date.

The bill will introduce a further significant reform to ensure more Tasmanians than ever have their say at these coming local government elections. The bill changes the ballot formality requirements so that ballots for the elections for more than five councillor vacancies only need to be numbered from one to five to be considered. That will constitute a formal vote. This



measure responds to the observed increase in informal voting in Tasmania council elections, following the introduction of the all-in, all-out voting in 2013. This matter was the subject of community feedback through the Local Government Legislation Review.

All-in, all-out elections had the unintended effect of increasing informal voting in some instances, due to the requirements, for example, that a vote for Hobart City Council elections be numbered from one to 12 without error or omission to be considered formal. Unaddressed, unintended informal voting could deprive many Tasmanians of their ability to have their say at local government elections and I am pleased to say that these amendments should substantially address that issue.

Noting the risk of increased vote exhaustion due to reduced preferencing, the amendments provide that ballot papers are required to contain instructions intended to encourage electors to number their ballots with as many preferences as they wish to include, while clearly stating the minimum requirements. To further reduce unintended informal voting, ballot-saving provisions are introduced such that electors who make an error on their ballot above the mandatory number of preferences will have their vote considered formal and be counted up to the preferences before their first error or duplication.

This bill represents a pack of reforms which will have significant benefits for many years to come. The Government is entirely confident the introduction of compulsory voting alongside these important measures to reduce unintended informal voting will mean that more Tasmanians than ever before will have their voice heard and their vote counted at this year's local government elections. We are taking one step at a time. The Government, through the Local Government Board is working alongside councils and the community to consider the shape and function of the local government sector in Tasmania to ensure our councils are equipped to support communities and meet the challenges of the decades to come.

I consider this bill the first, and very important, step on the journey to a more robust, efficient and responsive local government sector which more fully reflects the communities that it services.

Mr President, I am pleased to commend this bill to the House.

[11.54 a.m.]

**Mr GAFFNEY** (Mersey) - Mr President, I appreciate the briefings we received last week from the minister and also this morning from local government and Government members.

I rise to give my response to the Local Government Amendment (Elections) Bill 2022. I, like several of us in this place, speak from a position of lived experience as I was on the Latrobe Council for 20 years commencing in 1994, and as mayor for 12 years, and also as the president of the Local Government Association for three years from 2006 to 2009.

I am keenly aware of the challenges faced by both councils, in an engagement with the state government, and the crucial role of community input, open communication, and transparent processes.

Like all layers of government we strive for a symbiotic relationship that can best meet the needs of our community. A council's case is the community in its immediate local area, whereas for a state government, more existential factors can come into play.

Many of these involve party politics and policy formulation at a more distant level than the immediacy of daily council activities. These are items such as managing stormwater, planning advice and building regulation, community events, supporting local clubs and service organisations, et cetera, whilst at the same time being directly accountable to its ratepayers.

Local government has a direct impact on the daily lives of all Tasmanians, where many councillors are well known in their local communities and directly contactable by residents. Residents rely on council to do what we consider the boring stuff, with many councils allocating about 90 per cent of their budget to servicing the core work of council in serving the daily needs of residents. As an example, bins do not empty themselves and roads, public buildings, verges, drains and pavements need constant upkeep.

The distribution of the remaining 10 per cent - if it is that much - discretionary spending for such things as community organisations, events, and new community initiatives, is usually what interests people to put up their hand as a candidate in local elections. It is full credit to those who do, as the financial rewards can be slight when compared to the volume of work that has to be done to meet the government's expectations of council's activity, and active engagement with their community members. For many councillors, this is often alongside a full-time job or running their own business.

I would say most councillors are not in it for the money, rather more so for the intangible sense of wanting to make a difference for the communities they live in to get the stuff done.

I remember my wife and I had spent 12 months in London. I came back. My wife said, well, now you are too old to play sport. Why don't you stand for council? And I thought two terms would be good, eight years. I ended up being there 20 years, it was one of those things that happened.

**Ms Armitage** - They had to bring in a piece of legislation to actually get rid of him.

**Mr PRESIDENT** - Do not mention the war.

**Mr GAFFNEY** - What I am hoping to raise here, is that being a councillor is an altruistic act, to give service to your community, which for many can be their first direct experience in a publicly accountable governance role.

One spectre that does arise from time to time is the potential infiltration of party politics into local government. For virtually all councils in Tasmania, the tenor of local independent government for local people is strongly held and long may it remain so.

We can, and have, observed the impact of factions within local government both here in Tasmania and particularly in other states. That is not to say we have not had examples of council dysfunction that have required intervention from the government to resolve. Thankfully, it seems to have been mostly differences of opinion that have led to dysfunction within a council rather than party politics.

One of my fortunate happenings was when I was president of LGAT. I used to travel to Canberra once every eight weeks to meet with the presidents and CEOs of all the other organisations. It was amazing talking to the presidents of New South Wales local government,

and Victoria, talking about the debilitating effect of party politics within the council arena, and how difficult it was to get local issues dealt with in a sensitive and timely manner.

In other states, it appears that party political interests seem to have stymied local interest and added another layer of complication and partisanship. I dread the day if this were to arrive in our councils.

In saying that, I, like many others here and in the other place, have arrived in parliament after serving an apprenticeship in local government. There is a well-worn route to serving our community and gaining experience and passion to serve at a higher level, one that gives a strong grounding and understanding of due process. Getting along with colleagues whose opinions we may disagree with and again, getting stuff done that is of value to our community.

As we all know, the growing influence of party politics over that of independent debate in this place has been met with some concern and disdain in our community. Again, we are a council and an independent House of review. A buffer between the other place and a statute book to moderate legislation with the benefit of our range of knowledge and experience, hopefully to ensure it achieves its intended purpose and to challenge legislation, which may or may not raise concerns.

The legislation that comes our way is often complex and needs considered thought to fully understand the consequences it holds in its operations and enactment, either intended or unintended. There is often a desire by government to provide an apparently simple solution to solve a complex problem - a solution that can often open a whole new can of worms, with unintended consequences that cannot be retrieved.

I have to consider that this bill may be exactly that can of worms - a well-intended idea that may create further problems. That is not to say the thought of compulsory voting for council elections should not be considered. How it should be considered and the implications of its possible operation may be the crux of the issue.

Like all forms of policy reform, there needs to be a good process, and indicators of such a process, or there is the risk of failure; or worse, the risk of creating other complex issues that cannot be back tracked. Those issues will be harder to resolve than if careful consideration had been made and enough questions asked in the initial process to even begin to understand the subtleties and overall complexity of the problem that is to be resolved.

Professor Gary Banks AO in his delivery of the 2018 Alf Rattigan Lecture to the Australia and New Zealand School of Government, highlighted the value of good process, and the consequence of poor process. As the inaugural chair of the Productivity Commission, I am sure he has extensive experience in these matters. In his lecture and other presentations he has made on the subject, he defined a simple policy formulation checklist of good process indicators that give a measure or template for the implementation of successful policy changes.

These are:

- (1) Credible evidence of the policy problem
- (2) Analysis of all feasible options

- (3) Stress tested with stakeholders
- (4) Effective public explanation
- (5) Sound execution and monitoring

In his view, the only way forward is for politicians to lift their game as the policy change process is often rushed and steps overlooked. In his view, all of them must be addressed for it to truly succeed. If you overlook or bypass any, then you will have a problem. It must work on the basis of preparation, consultation and communication.

It is from this perspective that I view this bill and, in looking to Professor Banks' template, I struggle to see what, if any, of these steps have been addressed by the Government in presenting this legislation. We have a rushed bill that is being shoehorned into the middle of the Budget debate in the other place so it can land here this week in what, to all intents and purposes, appears to be an effort in strongarm politics to say, toe the line or else it will not happen in time for the October council elections. We already have a well-understood and trusted process in place for these elections, and one that as a member of my electorate commented, 'Correct me if I'm wrong, but we currently have two rights, to vote or not to vote, and that is true democracy with mandatory voting more akin to autocracy'.

If we examine the history of this issue, we know that it has been the subject of heated debate alongside a number of other complex issues surrounding the future of local government in Tasmania. It could be said that this layer of government and its election processes have been tinkered with over many years in an attempt to improve and refine its efficacy.

That is not to say these changes have not had value; it is the fact that they create uncertainty. The Government's imposition of this bill is no help at all in building the trust and confidence of councils in the Government's intentions. If one of those intentions was to create a sense of hypervigilance in councils, then the Government may have succeeded.

One might think from this action and others, that the Government sees itself as a saviour of local government, the adult in the room. That could be true of some councils that are falling into dysfunction. For others, it could be seen as disrespectful to highly capable and professional councils and councillors. Given the highly adversarial nature of the Westminster system, state and federal government, oppositions and party politics, it is perhaps a pot and kettle exercise for these entities to assume a higher level of governance standards.

However, we do have LGAT, the Local Government Association of Tasmania, a truly representative body for all councils, and one that brings local government policy issues as motions to its annual conference for open debate and resolution. Compulsory voting is one of these issues. It has been put to the LGAT conference in 2012, 2015 and 2016 in various forms, including opt-in for councils or across all councils. To date, all have failed to be adopted. One might think there would be a consensus in the voting record of large and smaller councils on this matter. That is not the case, with a diversity of council sizes on both sides of the debate. We heard this morning from the CEO of the Local Government Association of Tasmania that they meet four times a year, and that agenda items can be raised at any of those meetings. Usually big issues like this are left for the AGM, where there are a lot of other councillors and elected members as well as the mayor and the CEO and other members of their council.

I received some information from the LGAT. I will read some of this in. I will pick out pieces of it. I will cherry-pick. In 2012, there was an agenda item:

- 4(a) That the Meeting support the introduction of council-opt-in compulsory voting, whereby those councils that wish to do so may opt-in to make voting in council elections compulsory for all electors in their municipal area.

It was not supported. It was interesting, because when I was president from 2006 to 2009 a couple of councils that had tried to introduce it then had failed and thought, maybe if we allow each council to have their own stab at it then we might be able to get it passed. Similarly, after that:

- 4(b) That the Meeting support the introduction of compulsory voting across ALL Councils (ie compulsory voting is introduced on a sectoral rather than opt-in basis).

and that was not supported.

Bryan Green, the minister at the time, announced his intention to consult on a number of proposed changes to local government electoral arrangements. The matter was discussed at the Premier's Local Government Council on 15 August 2012 and members agreed to the formation of a working group of representatives from the Division of Local Government, Security and Emergency Management, LGAT and local government to consider the proposals with technical advice from the Tasmanian Electoral Commission. It is not as though it has not been well researched and looked into.

In July 2015, the City of Hobart and George Town Council moved a compulsory local government election. The Local Government Association urged the state government to consider making local government elections compulsory. It was lost. Hobart at that time also gave some background information, as they would with any motion you put forward. The council's view is it would increase participation in local democracy, engage the full electorate, building the relevance of local government and providing consistency across all levels of government, which are fair and reasonable assertions. The comment from LGAT at that time:

The General Management Committee of LGAT, agreed in December 2014 that the Association would support exploration of other possible areas of electoral reform during the next year or two. Members have already commenced informal conversations about issues such as compulsory voting, postal ballot versus ballot voting and disclosure of campaign donations and the Association will formalise the debate in the months ahead.

... At this stage, there are no formal recommendations associated with these areas, but the matters of compulsory voting, and postal vs ballot box voting have previously been debated and the formal position on record is that compulsory voting is not supported (by majority vote) nor is a move to ballot box voting.

Interestingly enough, I will read the votes for and the votes against because it is important. The votes for compulsory voting in that 2013-14 year were: City of Hobart, George

Town Council, Huon Valley Council, Glenorchy City Council, Kingborough Council, West Tamar Council, Meander Valley Council and Northern Midlands Council. In the votes against we had: Break O'Day Council, Brighton, Burnie City, Central Coast, Central Highlands, Circular Head, Clarence City, Derwent Valley, Devonport City, Dorset, Flinders, Glamorgan Spring Bay, Kentish, King Island, Latrobe, City of Launceston, Sorell, Southern Midlands, Tasman Council, Waratah-Wynyard and the West Coast Council.

**Ms Forrest** - Some of them have changed their position clearly.

**Mr GAFFNEY** - They could have. I am saying this is the past. In July 2016, the City of Hobart and Derwent Valley Council, again at the Local Government Association of Tasmania, urged the state government to consider making voting at local government elections compulsory. It was lost.

You could be forgiven for thinking that the minister Mr Street, as the Minister for Local Government - who is the newly elevated minister in this role, the third within the last two years - would be engaging directly with LGAT on this and other issues. This would naturally follow Professor Banks' good policy process indicators. As a matter of fact, there is the Premier's Local Government Council, where a past premier has declared that the government would continue to observe the established five-week consultation period, one that is contained in a statewide partnership agreement with the local government sector. Again, a sound and well-established process. That was in 2019, the Premier's Local Government Council.

Reaction from LGAT has been swift as it has been bypassed and brushed off with an almost contemptuous gesture by the current government. This bill has been presented as a fait accompli, job done, so pass it and let us get it ready for October.

Mr President, local government reform has been a hot topic for many years now with talks of inefficiencies, mergers, over-government and the like. This has been addressed by the Government with the initiation in June 2018 of the Review of Tasmania's Local Government Legislation Framework with an initial consultation phase that received close to 400 submissions. The result of this review was 51 approved reforms, of which three were not proceeding. Interestingly, whilst the one to five voting scale is 0-9, there is no mention of compulsory voting in any of the approved reforms. Furthermore, on page 47 of the Reform Directions Paper, Phase Two, in a section titled, 'Consideration of other key issues raised,' there was this observation:

While there was a good level of support for compulsory voting, it was not enough to demonstrate that the majority of the community support this approach. Tasmania's local government elections already attract a high voter turn-out compared with other jurisdictions, and therefore the potential marginal increase in votes that compulsory voting may achieve is not considered enough to justify the increase in the cost burden placed on the community.

So, what has happened here? The Government's own review has dismissed the need for compulsory voting in quite strong terms. How has this made its way into the bill over that of the other approved reforms? Here you have a reform that was not approved, there were others that were and yet this one is presented to us today in this place, especially when it had been taken from consideration. Furthermore, the Government has ignored established protocols by

riding roughshod over LGAT, a body that would have given objective, wise and learned advice to the Government on this issue.

Additionally, we have the argument put to us that compulsory voting is the norm in New South Wales, Victoria and Queensland with current voter turnouts of close to 80 per cent. Hardly a panacea of full involvement, even with such legislation in place. The two states like us, who have voluntary voting, hovering at just over 30 per cent turnout, are South Australia and Western Australia. Again, hardly ideal. Whereas in the last Tasmanian local government election, figures in 2018, and quoting the Government's figures, with optional voting in place, we averaged a 58 per cent turnout, with some smaller councils reaching the fabled 80 per cent of our larger mainland states with compulsion in place.

What is the problem? In fact, in the Latrobe Council when I was the mayor, the return on our voting was an encouragement for our council to look at how can we get people to voluntarily vote, to want to vote. As we heard this morning, whilst it is a different way of voting, in Western Australia and in South Australia and in Tasmania there is a significant decrease in informal voting.

Another issue raised as a matter of concern is the informality rate. In the case of other states, it is worth noting informality rates in compulsion states are significantly higher than voluntary states. In other legislation, the issue of voluntariness has been of particular interest. If we look at local government voting, the informal rate in optional states is a third of that in compulsion states. The stand-out is Western Australia, where rates of less than 1 per cent are generally observed, with South Australia at 2.3 per cent. In 2017, New South Wales reported 6.39 per cent informality. It can be argued this may be due to a complicated format and it could be equally true to suggest that people deliberately void their voting paper in frustration at being compelled to vote, as per the words of a member in my electorate I shared earlier. We all know that even when we go into state and federal elections you are not compelled to vote. You are compelled to get there: get the paper, put it in the box and then leave.

The Government states it is a particular problem for Hobart City Council; with less than 50 per cent turnout that seems to be a concern and a need for this measure. To be fair to Hobart, they have always had that position for many years now. I am not sure what the member for Hobart's view of this particular act might be. Perhaps it is reflective of the Hobart residents' general interest that they are either satisfied with their council, or lack of interest in their council, but I am fairly certain this bill will not help. I am not sure compulsory voting will endear them more to the political machinations of Hobart politics.

Launceston is the largest city council in Tasmania and when the compulsory voting motion was put to the 2015 LGAT conference, Launceston was recorded as voting against the motion, as was Clarence City Council - both large councils and with more residents than Hobart City Council. I am not sure why the decision to enforce Hobart's participation in local government is going to be helped by making them to do something they have naturally avoided. Maybe those that have chosen the right not to vote are entirely content with their elected members and operations of the city council, as may be the case across many councils.

Like all Tasmanians, Hobart residents tend to be particularly free-thinking, and dislike being coerced. Perhaps in this case, additional support can be given to Hobart to persuade its residents to take an interest in their council, as there does not seem to be a problem elsewhere in Tasmania.

I could offer an additional quip at this point, but I am mindful of the feelings of my friend, the member for Hobart.

We now have the state government-initiated Future of Local Government Review that began its work in December last year, and was launched under the aegis of the previous minister for Local Government, now Treasurer. It does appear to have a degree of autonomy and independence, as it is led by the Local Government Board, one that is chaired by the highly capable Sue Smith AM. However, the minister does retain the right to amend the terms of reference from time to time, as the review progresses, a right that does suggest a certain hands-on approach from the Government.

As a further move to transparency, the scope and scale of the Future of Local Government Review is outlined in the current budget papers, together with \$1.6 million to support its activities. I draw the member's attention to the language and phrasing in these papers. Regarding the future of local government, as stated in the Budget:

The Government has committed to a review of Local Government over two years to create a more robust and capable system of Local Government that is ready for the challenges and opportunities of the future. The review will be undertaken by the Local Government Board and will make recommendations on the future role, functions and design of local government and the structural, legislative financial reforms required to meet this objective.

The Review will deliver to the Tasmanian Government a clear, credible, and actionable set of reform recommendations for the future role, function, and design of the Tasmanian local government sector. These recommendations will be based on the findings of a detailed, and comprehensive community engagement and research program, in which all interested stakeholders have been given adequate opportunity to contribute to the reform discussion.

That is in Budget Paper No. 2, Volume 1, page 245. In these two short paragraphs, we have declared aspirations for a truly collaborative and exploratory approach that nobody here could fault. It would almost be the embodiment of Professor Banks' good process indicators, a recipe for successful policy change.

What has stopped the Government from doing the same with the bill currently before us today? We have recommended reforms that have come from consultation, and have largely been ignored, and now it is with the new focus on something that had been considered and excluded as being inappropriate. The icing on the cake is that LGAT's experience on this topic has been overridden and, as we heard this morning, ignored.

The future elephant in the room on this could well be the Government's reaction to this. Can we guarantee that there will be no surprises with any other bill that may arise from the current review on the Future of Local Government?

Coming back to this bill, what is the urgency? We have legislation that, whilst well intended, on closer examination raises a number of significant issues with both its premise and operation. We have a well-established and understood local government election process that has given us 13 successful elections since 1994. There is no rush. I believe we need to consider



putting this bill aside until the far more substantive Future of Local Government Review submits its recommendations, to which compulsory voting, and how it might best work in practice, as a cohesive, may be part of a broader and more substantive series of reforms.

On 15 March 2022, I received, as I imagine we all did, correspondence from the then minister for Local Government, Mr Ferguson, which stated:

You would be aware that the State Government initiated the Future of Local Government Review in December 2021. This Review is a once in a generation opportunity to create a more robust and capable system of local government that is ready for the challenges and opportunities of the future.

Six months ago, this review is a 'once-in-a-generation opportunity to create a more robust and system of local government that is ready for the challenges and opportunities of the future'. The terms of reference for the review require the Local Government Board to deliver its final recommendations to the minister no later than 30 June 2023. That is well in time for the 2026 elections to make any review recommendations through a proper community consultation process.

He further stated in the correspondence he sent to us not that long ago:

I consider it very important to engage Parliament throughout this process in order to achieve ambitious and durable reforms to Tasmania's system of local government, which can enjoy wide support in the community.

Mr Ferguson concluded his correspondence by writing:

I appreciate your ongoing interest in this important initiative. Local Government is critical to the ongoing wellbeing, sustainability and prosperity of our communities. I am confident that this review will provide the sector with the foundations required to support its important role for the foreseeable future.

When I received that correspondence and the directions paper and what the review was going to do, I was quite comforted that this is the approach the Government is taking. That is what they were going to do. In my mind, that was a fair and just place.

Lo and behold, we then have legislation in this place that has given it the flick. When I asked the question of the minister last week - and I have high regard for the minister - he said, 'I thought it was a good idea'. He thought that it was a good idea for this to happen and it was 11 April with the new Cabinet when Mr Street was given this portfolio only seven weeks ago. I would have thought if this legislation was important, that Mr Ferguson, who was diligent in his role as the local government minister, would have brought this to the table eight or nine weeks ago, but he did not. He sent us a piece of paper saying that there is a review process underway and that this is what we should be doing.

There was no indication in the minister's correspondence less than 10 weeks ago that there was going to be separate legislation external to the review process.

What has changed to command legislation that has not been mentioned in recent ministerial correspondence? Yes, Mr Gutwein resigned on 4 April; a new Cabinet was announced on 11 April. In that Cabinet, Mr Ferguson was announced as Deputy Premier and Treasurer, and Mr Street was given the responsibility for local government nearly seven weeks ago.

We now have urgent legislation which must be rushed through this week so that the whole way of voting in Tasmania's local government elections is changed. It is imperative that this is rushed through because - I have no idea, Mr President. As we heard in the briefing from Mr Street last week, it has been changed because he thought it was a good idea, or words to that effect.

I am concerned that it might have something to do with the Government's position of 'let us have reform of local government in 100 days' or something from when they took power or when they took over.

When I was elected in 1994, there were elections every two years. It was a half-in and half-out process - I am not going to go there - until 2014. Since I stepped down from the council that has now evolved into an all-in, all-out system on a four-year cycle.

We have had elections in 1994, 1996, 1998, 2000, 2002, 2004, 2006, 2008, 2010, 2012, 2014, 2018 and 2022. Now we have to rush this through. It does not make sense to me. It does not make sense.

Usually that cycle was quite consistent; however, with the untimely deaths of elected members, resignations or councils going into administration, there may have been the odd by-election out of the aforementioned cycle. Indeed, my wonderful predecessors Miles Ford and Bert Campbell both died whilst in the role of mayor of Latrobe. I followed Mr Campbell when I was on a career path but I was somewhat wary.

Other than the premier's resignation, what has changed that makes this legislation so vitally important that it has to be thrown at us like a dead fish that needs disposing of as soon as possible? Whilst I may not always agree with Mr Ferguson's point of view or the way he undertakes tasks, I would never question his work ethic or his approach to his ministerial portfolio. Is it suggested that Mr Street, by forwarding this legislation nanoseconds after being elected, was really saying that Mr Ferguson, now Deputy Premier and Treasurer, missed something or was not on top of his local government responsibilities? We had no notification of this legislation when he was the minister for local government.

I suggest that nothing could be further from the truth. Messrs Ferguson, Jaensch, Shelton and Gutwein have all assumed local government responsibilities in recent years and none has thought to forward this amended legislation.

As an example of direct community feedback on this issue, I will quote part of the letter from Bob Vellacott, a member of the Mersey electorate, published in *The Advocate*:

Party Politics Encouraged: The rushed, ill conceived and bombastic way in which the Local Government Minister (Nic Street) intended to table in parliament a bill to make voting for local government elections compulsory is to be deplored. It makes an absolute mockery and farce of the current

Future of Local Government Review that was supposed to give the public their say. The minister has also ignored his own government's comments and recommendations contained in the Local Government Elections Report.

Bob goes on to add to his argument with further comment and observations that may not necessarily be favourable to party politics and local government. As an additional piece of information on the politicisation of local government in other states, if we looked at the 1600 candidates at the 2021 New South Wales local government elections late last year, 1200 of them were aligned to a political party, hardly the route we would like to encourage here. We did hear that New South Wales has had compulsory voting since 1947.

In closing, I have to take issue with this bill. There are a number of problems and I struggle to understand the urgency or its need, especially as it comes from a minister who I hold in high regard. I have not delved into the content of the bill, because there are parts of the bill I quite enjoy and I would support.

I think this process is wrong. It is usually the government of the day which introduces legislation, in this case, making a significant change to another different sphere of government. If this legislation proceeds, it very much reinforces and demonstrates the subservience of local government. Is that what we really want? Without a consultation process, this Government has moved legislation to change the established and well-known optional process via postal voting.

My personal view or opinion regarding optional versus compulsory is not important and I dare say nor should it be with the members around this place, because the important thing here is the principle and the process. I hope people can step out of that I think compulsory voting is good or I think optional is good and put themselves in the position that we are a sphere of government along with the federal sphere, along with local government, each with our own different roles and responsibilities.

My personal view or opinion regarding optional versus compulsory is not important. I feel the process initiated by this Government completely disregards the role of local government and its ability to stand on its own two feet. However, if we pass this legislation, it is not only the Government saying to local government that it is not worthy or not mature enough to make consultative change, it is the parliament that is confirming that inadequacy and immaturity. I do not believe that to be a fair and accurate representation of Tasmania's local government and the elected.

I hope members can get out of their party position and think very carefully about what we are doing in this place today, as we are making a sphere of government that is closest to the people subservient to this place in an issue that has been around for many years. We change that here and we heard about it a couple of weeks ago, that is not good process. I encourage all members in this place to reject this bill and hopefully it will come back in a similar guise in 2023, after the recommendations have come back to the minister from the review. After all of those recommendations are put together and come back to this place as a piece of legislation, there can be confidence it has been through the correct process and consultation we would expect.

Mr President, I urge members not to support this bill.

[12.29 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, local government compulsory voting; an interesting issue. I find this a difficult decision, particularly owing to the lack of consultation and the feeling it is being rushed through. I agree that voluntary voting sends a message that local government is not as important as other tiers of government. However, there is alternatively the problem of politicising members around the table and making it more difficult for genuine unaffiliated-party individuals to get elected. Of course, the election spending cap must be kept which does assist non-party affiliated people representing their communities.

I do not know which one to go to first, there are so many different areas. I have asked my two councils regarding their opinions and I was interested to hear from the member for Mersey about Launceston opposing in 2015 because of the response I got from Michael Stretton, CEO of Launceston City Council:

The council has not formally considered this matter in my time here so, I would say we don't have a current policy position. It was, however, considered by the Council in February 2010 in response to a joint working group issues paper regarding compulsory voting in local government elections. At this time, the council favoured that compulsory voting be overtaken by postal vote and that voting by non-resident land owners should remain voluntary.

We had a discussion about the proposal during council's workshop and it would appear councillors maintain the same position to that which was agreed to in 2010. However, they did express opposition to the ballots being limited to 1-5 numbering. There is a view that too many ballots will exhaust.

And he asked if I could raise this on behalf of the councillors.

I also have an opinion from a councillor from Launceston council to say that they were generally in favour of compulsory voting elections, although they feared that over time it could lead to the politicisation of local councils by major parties. It says:

The politicisation tends to stifle true debate and democracy, leading to decisions being made in the party room rather than the chamber which could be to the detriment of good decision making principles.

I am also interested to read what the mayors said on mandatory voting in *The Examiner* newspaper on 25 May. City of Launceston, as the mayor said:

City of Launceston last considered the issue of compulsory voting in 2010 and was generally supportive at that time.

Annie Revie, Flinders Island:

In terms of what it means for us it won't mean a whole lot. On the island, because it is a small community we usually get 80 per cent of the vote rates but for the bigger cities the vote rate is lower so, we understand that mandatory votes may help to engage people with voting more.

Greg Howard, Dorset Council:

I am struggling to see the advantage because the people who usually vote have skin in the game. I can't see that there would be benefit in making people vote for elected officials they don't know.

Christina Holmdahl, West Tamar Council:

We have not recently considered the issue of compulsory voting in local government elections and while the proposal may increase participation in local democracy, this change comes with some risks and importantly, councils have not had sufficient time to consider the implications of such significant change.

Greg Kieser from George Town Council:

Local government is increasingly becoming involved in a broad range of responsibilities. The days of rates, roads and rubbish are well and truly sailed. We understand what the government are trying to achieve.

I will also read a comment from Christina Holmdahl as president of LGAT and she says:

We have not recently considered the issue of compulsory voting in local government elections and while the proposal may increase participation in local democracy, this change comes with some risks and importantly, councils have not had sufficient time to consider the implications of such significant change. With lower voter participation in local government elections, it will be important for effective promotion of any changes being made if it is to come into effect before the October elections. We hope this move will encourage greater community involvement by raising the profile of local government.

Data from the Australian Electoral Commission shows that in the 2018 local government elections, there were 356 810 enrolled voters, but only over half of those actually voted. The data showed there was a 58.7 per cent participation rate for the local government elections. Local government election votes are cast by postal vote, something that some mayors would like to see changed if the proposal to make council voting mandatory is enacted.

I appreciate the briefings we had and those with the minister last week. In the discussion with Christina this morning in the briefings, she said with the review underfoot, LGAT has suggested to the Government that perhaps it would be sensible to actually put the election out a year to allow all these decisions or recommendations to come back before the next council election. I have spoken to Mr Street as well and it did not sound as though that has been taken up.

This came before us in 2013. I will only reflect on my own comments because I could not remember what I had said, I have to admit, but I recall that at the time I was still a current councillor, so I did not vote on the bill. I did make some comment on one aspect.

The comments that I made at the time, which still have some relevance for postal voting, which is where you are looking at the issue. When you have compulsory voting, postal voting can be a problem because things can go wrong. The only way to avoid the problems of postal voting is to have voting by ballot box, but we must have been told at the time that it was too expensive for local government. Votes can go missing from letterboxes. Postal vote forms are all delivered at the same time. People may move without leaving a forwarding address, so they do not receive their mail. I did give an example at that time of a constituent who had been pulled over by the police, on his honeymoon, not knowing he did not have his licence, he had left his address and had not gone to the trouble of changing his address and therefore had not received the mail. That is a problem.

The point I raised at that time was that maybe we need to be educating more people about how important it is to vote. I have had people saying to me, 'Do I have to vote?' Often people get confused about whether I am on the local council or the Legislative Council because Launceston Council - when you are around in the streets and you are talking to people or out in the suburbs, they say, 'Oh, okay, you are on the local council?' - 'No, it is the Legislative Council.' - 'Yes, but it is Launceston?' - 'Yes, it is Launceston but it is Launceston Legislative Council, not Launceston Council.' It does get a little confusing and then they say, 'But we don't have to vote, do we?' - 'Yes, you do for the Legislative Council but you don't for the local council.' - 'Oh, I don't have to vote, that is fine.'

**Mr Gaffney** - Now I know why they are confused.

**Ms ARMITAGE** - Did I sound confusing? Quite right, but it is confusing. The question I have with the postal vote is that there are so many circumstances that can occur. At that stage I did vote against the compulsory voting, or against that clause in the bill. It is also relevant at this time to read in some of Kevin Bonham's comments - not all, but some - which I found interesting. He made some comments on 31 May with regard to compulsory voting and also the reforms of voting one to five:

Council elections are due to be held in October this year. This Bill would make the following changes:

- (i) Making voting compulsory

He also talks about voting one to five under (ii).

Of these, (ii) is a critical and necessary change to the voting system, whether or not (i) is passed. If (i) were to be passed in the absence of (ii), it is likely (ii) would become even worse. I've always been ambivalent at best about compulsory voting in council elections but I would greatly prefer to see this Bill as it is passed than to not see (ii), passed. I also think the case for compulsory voting is better now than it has been in the past.

His comments on compulsory voting are:

In the past I've opposed introducing compulsory voting for local government. I generally think that any measures (however slight) that affect the liberty of citizens need to have a good argument for them, and that the case has generally not been made out in the past. In particular, participation rates in

Tasmanian council voting have long been excellent, so there has been a strong "it ain't broke, don't fix it" argument. It's not clear that compulsory voting will mean better representation - it might benefit candidates who were good at getting votes from people apathetic about local government (celebrities, incumbents or party candidates) but who might not be particularly good councillors.

However, I think there is a better case now for taking that risk. In the last few years the impact of council politics on many young voters has greatly increased, primarily because of the ongoing issues with affordable housing and rental availability. Councils have a large impact on the housing market and on the regulation of short-stay accommodation. Although there was improvement in 2018, young voters are still severely under-represented in voluntary voting in councils.

He continues -

I think that at this time it's now more important than before that young voters are heard as close to equally as possible in council elections, so that those affected by council decisions are not disadvantaged by the failure of others in their cohort to participate. For this reason (and because it is coupled with the necessary reform to improve the formal voting rate), I have decided not to oppose the proposal for compulsory voting this time.

However, passing compulsory voting without improving the formality rules would be likely to be an informal voting disaster, and I am very pleased that formality reform has been included in this Bill. My overwhelming concern here is that the formal vote reforms are passed promptly to give the TEC time to implement those changes, with or without the change to compulsory voting.

That was a question I asked this morning. I was pleased to hear that Andrew Hawkey from the TEC has been consulted and made the comment that he felt that there was time to implement it and they had the resources. That is important, because when you have a postal vote and you are sending them out, they do not have to worry what does not come in; they only have to concern themselves with what does. In the future, they will have the concern with anyone who does not vote.

Leader, I wonder will there be almost an amnesty on fines if people do not vote for the first time of compulsory voting because they are not used to having to vote in compulsory elections? How often do we get mail go missing? When I had a post box, I often had mail in it for other people. I am sure that sometimes my mail went to other people's boxes as well. How often do people say they do not get mail that is posted back? I see it as a nightmare for the TEC with people saying they did not receive their voting papers. You can advertise all you like, but if you do not listen to the radio and you do not read the paper or watch TV, you might not see it. Are they going to post out to everyone to say 'coming up in October you are going to have to vote'?

I find it a double-edged sword. I like to have compulsory voting. I lost by three votes back in 2009, so I would have loved compulsory voting. How many people tell you, my vote is still sitting on the window sill, sorry I did not post it back.

However, it is not our personal opinions here - it is what suits the community. Is there time to implement it and will there be time for everyone - particularly older people - to understand that, suddenly, what they have been doing for ever and a day has changed? I do have some concern that people may be a bit confused and may not send it back this first time and be fined. I want to see an amnesty for those people, so it is part of the education process, and not all about money.

The fines go up to about \$60 for the second time and eventually you can land in court, and all because you did not get your mail; or maybe it did not get where it was supposed to go or you did not appreciate what was supposed to happen and that you had to vote. They did not realise they had to do it.

I do see some issues with that, Leader. I do not know whether the Government is planning to charge everyone if they do not; but if this does get through, it would be a good move to have an amnesty at least for the first voting period.

We heard this morning from Christina Holmdahl, as has been mentioned by the member for Mersey, that on 5 May at a confidential meeting with the minister, was the first time this was raised with them and obviously we have LGAT for a reason. LGAT is there to represent councils and to vote. The last formal voting on this was 2010 - that is what I have from my Launceston City Council. I appreciate there are many issues raised in the review. Back to 5 May, it is a little surprising LGAT has not been more included along the way with that. It still is an issue that has great support in the local government sector, but I am concerned there was no consultation with the sector and that is disappointing.

Personally, I think and other members in this House who have been in local council think the change to four years was a huge mistake. The half-in, half-out always seemed to work very well. If we still had that we could have waited two years. It would have been a much more sensible option if they are not inclined to put off the election for one year.

As I said, the problems are that LGAT had not had time to discuss it, the grievance that there was no consultation and, as was mentioned by Christina this morning, they still do not know the mechanics of how it will work. They would like to know how it is going to work if they have been caught by surprise. As she mentioned, they are prepared to work with the Government, to ensure the result they wish.

The other part I will mention, is the one to five, as mentioned by Kevin Bonham, who feels that is the most important part of it. He would hate to see the bill go down and take that with it. That if anything had to get up, it was the one to five to try to make every vote count.

Launceston City Council: as I said the councillors there have quite the opposite opinion. The majority there were concerned with the exhausting of ballots. The CEO has asked I raise the concern on behalf of their councillors.

It was also raised by another member from Launceston, that number of only five candidates for a valid vote:



This change concerns me, and in my opinion, voters should be required to vote to at least 75 percent of the number of elected positions.

In the case of City of Launceston with 12 council positions, voters would need to vote for nine for it to be a valid vote. Obviously, if it was a small council with only seven councillors, then numbering to five would be sufficient to meet this rule.

My personal feeling, on the voting, having been an elected member, is if the Tasmanian Electoral Commission - and I also recall this, and the member for McIntyre was also on our committee into the Tasmanian Electoral Commission. I do not believe it always happens, and suppose it depends on who is actually looking at the votes, and who is counting them and going through them. At that time, we were told that if a genuine - if they can actually see the genuine intent of how a voter is meaning to vote, as long as it is, obviously, not something they cannot accept, they generally try to accept the vote. If they see that voter was genuinely trying to put this, this and this. I do see that sometimes people do not intentionally make a mistake.

I do not have a real problem with one to five, because it is a genuine intent, it is five votes. I understand that part about exhausting and know members here who have been on council would understand when you stand for mayor, sometimes they get exhausted because my memory is that you should only have to put one; that you do not have to go one, two and three. That has been a problem in the past, because sometimes people have thought if it went one, two and three, they actually may have gotten the exhausted votes.

I can use examples. I can remember in my own election there were three of us standing for mayor and a lot of the votes were exhausted and you keep thinking gosh, I wonder if I would have picked up three more of those exhausted votes if they had to vote the whole lot. You do second-guess and you do look at those issues as to how it works. I also recall someone signing a ballot.

Postal voting is great for people. It is convenient. They can sit at home and when I read some of the comments on postal voting - they can go through, there is a blurb they can sit and read that, because particularly in local council, not everyone can actually afford to put flyers out or go around and put them in letter boxes. From memory, there are about 23 000 houses in Launceston, when you consider the number there are to cover. There are about 110 000 people in Greater Launceston but if you are looking at the number of houses, not everyone can afford to do that, particularly if they are not affiliated with a political party and they do not have people to deliver for them - like most of us Independents here, we deliver with maybe a partner if we have them out on foot, whereas they cannot do that.

They have a big ballot paper and they can put their blurb or comments there. People can sit down and read about them, which is really great. It is almost like having a ballot or having an election brochure delivered to them in one big sheet. I see that as an advantage, but I also see the disadvantage balanced with compulsory voting because compulsory voting almost is that you need to go to a ballot to make sure that everyone has the opportunity to get their vote counted. Postal is an up-in-the-air thing about 'Did you receive it?', 'Did it go astray when it went back?', or 'Did you change your address and have not got around to changing your address on the electoral roll?' - there are so many different variations of how it could happen and what the problem could be.

I am in this situation at the moment. I agree with part of it. I agree that it needs to be a postal vote for a lot of people. They are used to it. However, I want to see it phased in much more slowly and I want to have seen either the LGAT suggestion taken up that it be included in the review, then the review comes out, and the election being postponed for one year to have everything fall into place. I am sure that does not fit in with everyone's agendas, but I would have thought that was sensible with the review and also it is allowing time for it all to come up.

I can also see that compulsory voting shows how important local government is. I can see both sides so I am weighing up which way I will go with this vote. I believe that consultation is important, not just advice.

I can remember being on the council and many times the council said 'we have consulted', but what they did was tell the community what they were doing; they did not seek their advice. They gave advice. In this case, this is exactly what has happened to LGAT. It has been told what is going on; it has not been asked for its opinions. It is that old thing of the council not consulting but simply telling them what they are doing.

I have a little problem with that given the short time frame, regardless of how much notice you put out there and how much advertising you do. I want to know what the cost of that is going to be, Leader, considering it is going to be considerable advertising to put out there. I am sure that is going to boost the cost. I am assuming that the bill will be footed by the Government and not by the councils. My understanding is the councils pay for the local government election. I am wondering what the extra cost is if there will be extra cost for the election. It is not just a matter of counting the votes that come in, but it is making sure of counting all of the ones that do not come in and then sending out. There will be significant extra cost for the TEC, which means an extra cost for the council.

**Mrs Hiscutt** - Mr President, we were informed through briefings that the TEC was okay with this.

**Ms ARMITAGE** - I understand that the TEC is okay with it, but it is not the one footing the bill; it is the local councils that are paying the TEC for their local council elections. That is a little bit different to the TEC saying it is happy to do that.

**Mrs Hiscutt** - I thought that was what you were asking, looking for clarification.

**Ms ARMITAGE** - No, thank you, I am asking about the anticipated extra cost which will be put on the councils because they are the ones that pay the TEC. I am sure the TEC is happy to do whatever work it gets and keeps it going. I am concerned about the extra cost.

The other question, Leader, was with regard to all the advertising needed: will that be money expended by the government or the local councils - in other words, the communities - because where do councils get their money, if not from the people?

**Mrs Hiscutt** - They get a lot from the other levels of government, too.

**Ms ARMITAGE** - They do, but still, a lot of money comes from the community.

**Mrs Hiscutt** - I am not disputing that, I am only saying it is not just the people.

**Ms ARMITAGE** - As I have said, we are told that voting one to five will lift engagement with the community and make voting simpler. I agree with that; it will make it simpler, and it is very important that not so many votes are exhausted. Sometimes you see it on the ballot if you go back, there are votes that were not correct that some candidates get. If you think this is really terrible, there might be 600 invalid votes and someone might only receive 300 votes. You do not know where they should go and it can make the difference between someone being elected and not elected, particularly in a local government election where, obviously, the voter turnout is a lot less.

I do support that and appreciate that, Launceston City Council - but I have not had a chance to ask the community on their opinion on the one to five. The Meander Valley Council is also in support of compulsory voting; they have come back with both the members they have in our area here. I am pleased to see I have had a response from both my councils. As Wayne Johnston said, Meander Valley Council has discussed this at last Tuesday's workshop and the majority of councillors supported the proposed legislation.

It was felt the community would be greater engaged and hopefully would be more interested in local government if this legislation passed. It is also interesting to note, and this was sent out by the Leader from each of the other states, that Queensland, compulsory, only persons on state and Commonwealth electoral roll eligible to vote; New South Wales, compulsory for persons on residential roll; Victoria, compulsory for persons enrolled on state and Commonwealth electoral roll; South Australia, optional; Western Australia, optional; Northern Territory, compulsory. It certainly is something that shows local government elections are important. You have local government, state, federal and it is almost like local government does not matter if you do not have to vote. I find that a bit of an issue, but at this stage I am going to listen to other contributions because I am not really sure which way I am going to vote on this.

I had concerns it is being rushed through before this election and I really do not know why. If the Leader or a member of another party who are both supporting it could tell me why it is being rushed through when it has been this way for such a number of years. If it was the election next year you would think you have a period of 18 months to get through it, but since day dot you have voted by postal ballot and sent it back if you want to, if you are engaged, but do not worry if you do not, you will not get fined. It is then changed to, all of a sudden, you have to send it back because you will get fined. That is concerning, particularly for the number of older people in the community who sometimes have every intention of sending them back.

When I have been out on the streets during the election times for council, you tend to wander the suburbs. It must have been the last election time and people were saying 'if I cannot get to a post box, what do I do?' In a lot of the suburbs there are very few post boxes and when people are older, they are not necessarily able to get there. It is an issue to me they will be fined, particularly this first year when it is such a rush to get through, to have to make sure they vote. Leader, I would be really interested to hear if there will an amnesty for this first year for those fines. I would hate to see people going to MPS, particularly if they do not know they have to vote after it has been so long in the planning. Since 2010 when it was mentioned and not reflecting on a previous vote, but I did go back and read some of the comments from 2013. It was interesting reading the comments, as well as my own, because I knew I actually had not spoken on the ballots.

**Members** interjecting.

**Ms ARMITAGE** - At that time in 2013, I was currently handling dual roles. I was on Launceston City Council and also in this place, which basically overlapped each other, Launceston City Council and my current electorate are pretty well overlapping and I did not feel it appropriate to actually vote on the bill itself that reflected about the dual roles. The member for Mersey might recall we both spent our time upstairs in our offices when we were over in 10 Murray Street, because we came down to speak on certain aspects not relevant to the fact that all of a sudden, we were going to be told we were not able to have dual roles. It was an interesting one.

**Mr PRESIDENT** - That is why we had to knock that building down.

**Ms ARMITAGE** - Yes, it was an interesting building. At this current time, I am struggling with whether to support this one. I was happy to support it under suspension, because as I was saying it was going to come up in two weeks time anyway and that still did not change the lack of consultation, or otherwise, it made no difference that we could legally debate this bill the following week after budget Estimates. It was not going to make any difference at all to whether or not the community were consulted with it.

When it comes down to the voting it is really a difficult decision. I will be very happy to listen to other members and contributors to see if, maybe, I will change my mind. Really, I do not know at this stage. I am interested in hearing the answers, particularly with regard to the postal ballot. One of the main topics that came up previously was if you are going to have compulsory voting, then does it need to be via the ballot box as opposed to via mail, as we know the difficulties the Australia Post have.

I might think of something over the lunchbreak.

**Sitting suspended from 1.00 p.m. until 2.30 p.m.**

## **QUESTIONS**

### **Hydro Tasmania - Payment of Royalties**

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

[2.32 p.m.]

Leader, following the question and answer last week in the questions without notice process relating to Hydro Tasmania, the response indicated that one company has paid royalties, or a licence fee to Hydro Tasmania, for submerged timber over the years 2013 to 2021.

You gave me the answer, but my supplementary question was, what is the quantum of the royalties and/or licence fees that have been paid over that 2013 to 2021 period?

## **ANSWER**

Mr President, I thank the member for her supplementary. Under the licence with Hydrowood, the information requested may only be disclosed with the permission of the licensee, who has asked not to.

### **Hydro Tasmania - Public Resource Information**

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

[2.33 p.m.]

Supplementary, Mr President. Since when have we not been able to receive information of a public resource? I am not aware that has been the case. Again, I will be following up with that, because I know my constituent will not be happy with that response.

**Mrs Hiscutt** - Are you going to put that in writing again?

**Ms RATTRAY** - Absolutely.

### **Elphin Sports Centre Upgrade - Disability Access**

**Ms RATTRAY question to MINISTER for DISABILITY SERVICES, Ms PALMER**

[2.34 p.m.]

In regard to the Elphin Sport Centre facility in Launceston, I understand the Government has been researching and seeking advice regarding options to upgrade the facility to accommodate for essential disability access.

Can the minister please advise what action has been taken to date and the progress of this vital upgrade?

**Mrs Hiscutt** - For clarity, I have an answer from the Honourable Jacquie Petrusma.

**Ms RATTRAY** - I do not mind who answers the question, Mr President. The Minister for Disability Services took my question originally, hence my question to her.

## **ANSWER**

Mr President, I thank the member for the question and I am certainly happy to answer this question because as the member knows I have a vested interest in this matter. As I have spoken before, I have reached out to constituents you have brought to my attention who have been affected by the infrastructure we have at Elphin. I will read to you the answer from Jacquie Petrusma as the Minister for Parks.

To meet the contemporary community expectations for accessibility to the Elphin Sports Centre the Department of Natural Resources and Environment Tasmania's property services branch, within the division of Tasmania Parks

and Wildlife Service, has prepared a schedule to undertake works over two years, which includes provision for new accessible toilets and shower facilities, ramps and/or lifts for movement within halls, accessible car parking, accessible walkway linkages and asbestos removal.

The PWS is also in the process of preparing a request for quotation for primary minor works including kerb modification, stairway design, toilet design, signage and priority parking.

As the Minister for Disability Services, I have been working very closely with my colleagues on this matter at the Elphin Sports Centre.

### **Elphin Sports Centre Upgrade - Disability Access**

#### **Ms RATTRAY question to MINISTER for DISABILITY SERVICES, Ms PALMER**

[2.37 p.m.]

I am interested if there is a time frame. I know you said two years for the substantive works to take place. I am interested in that short-term attention to some of those challenges for a person living with a disability. What is the time frame for those initial works?

#### **ANSWER**

I thank the member for the question. There is a process in place, quotes are being obtained and I will take on notice your part of the question on actual time frames and get back to you on that.

### **Cressy Research Station - Funding**

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

[2.38 p.m.]

Mr President, I asked a question in regard to the Cressy Research Station. They had requested some funding for an upgrade at the research station and part of that upgrade depended on some land acquisition as well. I ask a supplementary question. We know it is all well and good, but my specific question was around the Cressy Research Station request for funding.

I believe the minister has a response to that and she may well announce that funding.

#### **ANSWER**

I thank the member. Yesterday you asked the question and I have an answer I hope will satisfy you.

The Tasmanian Government is committed to investing in Crown research farm assets to support local agricultural research, development and extension that directly leads to sustainable growth and productivity improvements for Tasmanian farmers and agribusinesses. This

includes committing \$7 million in the 2018-19 state Budget to modernise Crown and Tasmanian Institute of Agriculture research farm assets.

Regarding the Cressy Research and Demonstration Station, a commitment was made to invest \$700 000 of the \$7 million funding to upgrade core infrastructure at the site, potentially including electricity and pipelines for irrigation, drainage works and to upgrade training facilities.

The current lease at Cressy is due to expire in November 2024. New lease arrangements are being conducted in an appropriate, transparent manner. A public expression of interest process is underway. This process is being conducted by the Department of Natural Resources and Environment Tasmania with due probity measures in place. Advice to NRE Tasmania from the Office of the Crown Solicitor is that while the EOI process is being undertaken, negotiations for infrastructure upgrades should not proceed until a new head lease is finalised.

**Ms Rattray** - I thank the minister for that response, the \$700 000 that has been committed is no longer on the table, is that what the minister is letting me know? That it is not available given there is a lease arrangement being undertaken at the moment. You have given it in one hand and then you are saying that because we are in this process, it is not available, is that correct?

**Ms PALMER** - At this stage, all I can do is to reiterate to you that NRE Tasmania received advice from the Office of the Crown Solicitor which is saying while the EOI process is being undertaken, negotiations for infrastructure upgrades should not proceed until a new head lease is being finalised. The current lease at Cressy is due to expire on 24 November, and those new lease arrangements are being conducted in an appropriate and transparent manner.

**Ms Rattray** - I want to have it clear in my mind, if the minister does not mind. Is the \$700 000 still a firm commitment, regardless of who holds the lease?

**Ms PALMER** - Member, I will have to take that on notice and get back to you.

## **LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2022 (No. 28)**

### **Second Reading**

**Resumed from above (page 32).**

[2.42 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I will finish with a couple of comments. The comment I am going to read is from the February 2012 inquiry into local government elections, the LGAT's position, because it is still relevant now. It said:

Reservations around the introduction of compulsory voting are linked to the following:

- The introduction of postal voting resulted in a significant increase in the number of people voting in Local Government elections. This is done on a voluntary basis because people want to vote and to be involved. The

introduction of compulsory voting marginally increase the number of people voting but it could also bring with it the responsibility to pursue those who do not vote and the consequence enforcement costs.

- Compulsory voting has the potential to result in increased informal voting as people are being forced to vote rather than exercising their democratic right by choice.
- Compulsory voting may lead to an increase of party politics in Local Government with detrimental effect on community representation.

One other comment, Leader - or for the Deputy Leader listening, because I have a question and I see the Leader is busy at this time - it was noted back in 2012 that a feature of the conversations between the state government under David Bartlett's premiership was the state government would meet any new costs related to implementation, compliance monitoring, and enforcement. As I have mentioned in my previous questions, does that still apply? I appreciate that was back in 2013 but, obviously, there is an increase in enforcement associated with compulsory voting, particularly those who do not vote.

In closing, one of the other points I have been asked to make and will reiterate on behalf of the councillors of Launceston was they were concerned with one to five there may be too many ballot exhausts and they would prefer it to be 75 per cent. I appreciate we have heard from others, including what I read from Kevin Bonham, for the reason for one to five and to certainly make everyone's votes count, but I have reiterated the concerns of the councillors of Launceston on their behalf.

[2.45 p.m.]

**Ms LOVELL** (Rumney) - Mr President, Labor has a long-held policy position of support for compulsory voting, and I am pleased to see the minister taking action on this. We have had no fewer than three local government ministers this year alone, so I am glad one of them has managed to stay in the role long enough to progress this important reform.

I would have preferred the process to have been better, as has been acknowledged by the minister. This has been rushed, with no time for consultation, due to both the short time frame and the timing of the tabling of this bill to coincide with the budget session, which is the busiest time of year for all of us.

However, the position that we are in is to either support the bill now, and allow as much time as possible to successfully implement the reform before the council elections later this year, or wait another four years. When I say we, I mean those in support of the bill, and I do not want to wait another four years.

The very principle of compulsory voting is key here, and we have heard varied views from members today.

As other members have noted, turnout for council elections has historically been very low. At the last local government elections, turnout was about 58 per cent across the state. We heard in the second reading speech from the Leader that this contrasts with turnout in the order of 80 percent in states with compulsory council voting.



Local government is an important tier of government in Tasmania, but it is often treated with a level of disregard, which is demonstrated in those low turnout numbers. It is seen as somehow less important than state or federal government, when that is far from the truth. Local councils make decisions that impact on all our lives, just as significantly as the decisions we make here in the parliament.

The introduction of compulsory voting sends a message that this is important and that all tiers of government are as important as each other.

I do have some concerns about how it will operate in practice. As other members have mentioned, community education will be key, and the minister has acknowledged that. It is critical to get this right, and it will be difficult in the time available.

The minister has also acknowledged that the process to this point is not as he would have preferred it to be, so I sincerely hope that he will listen to the concerns raised about this process, and not repeat that with the next steps in the implementation of the bill, and the community education component, should it be supported by the parliament. It is back on the minister to get this right.

I get the sense through my own consultation and the briefings that have been presented to us, that councils, and LGAT as the peak body, would also have preferred a better process to this point. However, it seems to me that they stand ready to work with the minister on this, and I strongly encourage him to do so.

I also stress to the minister the important role that the local government workforce will play in this, and put on record that I expect him to genuinely engage with the Australian Services Union and the workforce, on this as well as on future local government reform.

I have a question for the Leader, although it may already have been asked by the member for Launceston, about the costs incurred by the introduction of compulsory voting. Can the Leader please confirm who will be responsible for those additional costs? That includes staffing costs for the TEC; and the cost of the increased return rate of prepaid envelopes. What modelling has been done and provided to councils so that they can adequately prepare for this? Will councils be liable for that cost? Will there be support from the state Government, particularly for this first election? I know most councils budget for elections over the entire four-year term, and would not have taken this into account. Some of them have already passed their budgets for this coming year.

As I mentioned, Labor has a long-held policy position of support for compulsory voting at all levels of government, and I will be supporting the bill in line with that policy position. Compulsory voting is a positive reform for the local government sector, and it is one that I firmly believe in. I look forward to increased community engagement with this important tier of government.

[2.49 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, I make no apologies for not supporting the suspension of Standing Orders. I believe that due process is important, in this case, given the amount of time that we have had this bill before us. When we first came in today, we did not even have the second bill that has been signed off by the Clerk in the other place. It shows how quickly this situation has transpired.

As most would know, I have had a fairly long time with local government - some 20 years, the same as the member for Mersey. I was Lord Mayor of Hobart City Council for over 12 years and had a couple of stints as Chair of the Council of Capital City Lord Mayors. It was interesting sitting around the table with those capital city committees to listen to how various councils are run, and how they may or may not be influenced by party membership on their councils. One of the arguments put forward is that, if it is compulsory then you get a greater number of party members, with a greater possibility of party tickets being put up. There will be varying positions on that.

The council that I used to be on, and indeed, since I left, has put up at various times a vote at the Local Government Association to have voting made compulsory. Each time, they have failed. As I recall, the last time they put it up, it failed by one vote. I think that was the weighted system - I might be corrected by the member for Mersey. With those sorts of votes it was the weighted system as opposed to a single vote per council, if I am not mistaken. A weighted system is used to try to get a fairer indication of local government per se, across the state. They allocate so many votes depending on the size of the council.

**Ms Rattray** - Through you, Mr President, I think the larger ones get four votes.

**Mr VALENTINE** - They get four votes and three, and then two and one.

**Mr Gaffney** - Through you, Mr President, there is red, white, blue and green. It is proportionate. The last one in 2018 was very close. The general manager from Devonport held up a green card instead of a white card, and he asked for a recount, and that is why it was in favour of not having compulsory voting.

**Mr VALENTINE** - But it was a weighted vote, was it?

**Mr Gaffney** - Yes, it was a weighted vote.

**Mr VALENTINE** - If you were to take it on the number of voters represented by those councils, it probably would have passed. But it was taken on a weighted system and we have to respect that. That is the way local government does things at local government annual general meetings.

The Government considers the democratic benefits will not be realised for a number of years into the future if it does not get through at this point. The Leader informed us that the minister has said other reforms will not be rushed.

The significance of this reform is not lost on me. It certainly has the capacity to change the way things are viewed by members of the community. Compulsory or otherwise is the question.

Through the Leader, the minister also says we need sweeping reforms to get local government to where we want it to be. My question is, where exactly do we want them to be? Is it a greater opportunity for party influence? I expect he means it will make local government more democratic. I will give him the benefit of that argument. It is hard to argue that; providing the one to five was to pass, it would make it more democratic.

Thank you for the briefings. As I questioned in the briefings that hopefully one to 12 is encouraged so you are not actually saying to people they only have to vote one to five. Yes, that is the minimum. Yes, that is where the valid vote matters, but, in the example of the voting form in the bill, it gives an encouraging line about voting one to 12. I would have to recheck that before I get to the point of voting on it.

Obviously, with 12 seats you would think a minimum of 12, and a lot of people do not know 12 people. They trip up on their numbering and it ends up becoming informal. I do not know whether there is any other jurisdiction that says you have a minimum vote from one to X which is fewer than the number of the seats to be elected. I did ask for that information to come forward and do not believe I have been provided with that. Leader, if it is possible for you to provide any information that may have been discovered as to whether there are jurisdictions that are telling people to vote one to whatever that is fewer than the numbers of the seats to be elected, I would really value that. It is an unusual circumstance in that regard. One might say it is less than democratic. Getting more valid votes might be considered more democratic, but asking people to only vote one to five when there are actually 12 seats to be elected might work the other way and what is the circumstance for this, if it is available.

It is a fact that all-in, all-out has increased the number of informal votes and the member for Launceston might have read in Kevin Bonham's article on that. I will not go over that ground, but it certainly appears quite clear that is the case.

The member for Mersey says mandatory voting is toward autocracy and not democracy, an interesting point. Forcing people to vote is maybe not as democratic as allowing them the option to vote. My only comment would be that local governments should be the same as every other level and the other levels have compulsory voting. Why would local government not have exactly the same strictures placed on it as other levels?

It is important to understand local government is not a separate sphere of government. It is voted on by the populous. The member for Mersey said the Government is seen as the adult in the room, and it does not have to say when we meet or used to meet. He is right there, that is a perception.

However, if compulsory voting came in, that actually might be a perception that changes. We must remember at a state level, each member here has the voter's sovereignty bestowed upon them to deal with state matters. We do, we carry the sovereignty of X number of thousands of people in our electorate. What is it these days? It is over 25 000 or so.

**Ms Rattray** - Some of us have 27 351.

**Mr VALENTINE** - You know that quite clearly, these days. We have just been through one. That is a lot of people. You line them up in a row. You are sitting in here and you are not necessarily in this House representing them, in the sense that they have put you here to sit in judgment on legislation for the whole state, not just for your electorate. It is a lot of people who put their trust in you.

Local government is no different, except the numbers, depending on how many vote. Some of the elections when I stood in local government, 18 000 votes might have been all that was received out of a total of 30 000 for municipality of Hobart. It is exactly the same for local government.

People are placing their sovereignty in that individual. They are not less than this Chamber. They have been put in place in local government to perform the responsibilities that the local government has. It is not a subservient role.

The only circumstance where that is not quite the case is actually the structure of local government because it comes under a minister, and there is a local government division that oversees it. This parliament has jurisdiction over the shape. Now, that said, one would wonder why the parliament would expect a local government to look different from the way its own structure looks, in terms of compulsory voting versus voluntary. I weigh all these things up and think, where do I stand on that?

The Reform Directions Paper reflects on the cost and the member for Mersey concludes the extra cost does not justify the move. That is the way the member expressed it. I personally do not think that cost comes into it. When it comes to setting up a framework for a tier of government, we need to look at democracy and the best way to see it exercised.

**Mr Gaffney** - It was the member for Launceston who looked at the cost.

**Mr VALENTINE** - I do apologise, was it the member for Launceston, who talked about the extra cost of compulsory voting?

**Ms Armitage** - Yes and whether the Government, particularly in this first year, would pick up the costs for the councils.

**Mr VALENTINE** - Putting this bill aside until the full review is complete would have been sensible. We have had that debate by having the suspension of Standing Orders to consider the bill. Some of us voted on the no side. We put our case there. We did not win that and for whatever reason this House is in a situation where it is considering the bill before us.

The short time frame means less opportunity to hear from constituents and this is the only beef I have and, in the sense, that while I know that my council, the only council I have -

**Ms Rattray** - You are not blessed.

**Mr VALENTINE** - I am not blessed with six, I only have one. I know where it stands on that because in its submission to the local government review it quite clearly states a long-held view that compulsory voting is required in local government elections to assist in achieving a more balanced representation of the community as a whole. That submission to the review was in 2019, so it was after the 2018 elections - I am confident that is the council's position. The only thing is, it does not have a position on the numbering one to five because it has not had the opportunity to consider that as a council. There we have it.

I will continue to listen to the debate and other members' contributions as they give their points of view. I can see the benefit of compulsory voting; I can see the disbenefit if compulsory voting is passed but numbering one to five does not. Dr Kevin Bonham, in his blog, stated that there would be significantly more informal voting. I will read it for clarification:

Council elections are due to be held in October this year. This Bill would make the following changes:

- (i) making voting compulsory
- (ii) reducing the number of boxes a voter must number correctly for a valid vote from up to 12 (varying by council) to 5 (votes with errors in numbers beyond 5 will be formal under savings provisions.)

Of these, (ii) is a critical and necessary change to the voting system, whether or not (i) is passed. If (i) were to be passed in the absence of (ii), it is likely (ii) would become even worse ...

He is quite clear that is the likelihood. There is a part of me that says rather than trying to make it easier for people to vote one to five, why not educate them all? Why not have greater education so that people understand the need to vote to 12 when there are 12 seats available? Making voting compulsory will certainly heighten the profile of local government elections, which means people would be more knowledgeable about such voting. If they know they have to vote, they will probably do their homework.

With a postal voting system, everybody is sent out a 150-word statement from each candidate by the Electoral Commission they can read while sitting at their kitchen table or wherever in the comfort of their own home and decide where they want to place their votes. It is not like rocking up to a ballot box and thinking, 'I only know six, I do not think I can vote for any more than that', or 'I only know three'. The chances are much greater for a formal vote when you have those statements in front of you, if you would care to read them.

I am going to listen to the debate and see where this goes. I am inclined to support compulsory voting, not just because my own council does but because it would benefit the profile of local government. It would bring local government up to a level playing field with the other two spheres of government. There is a method in that. As for the one to five, I wish we had more time to consider submissions on that.

I have an opinion from Dr Kevin Bonham, and he is pretty good on these sorts of things, but there may well be other points of view that are worth taking into account and which I have not yet received.

I will listen to the debate, and then vote accordingly.

[3.10 p.m.]

**Mr WILLIE** (Elwick) - Mr President, a short contribution from me. I thought it was a good place to follow on from the member for Hobart, because I do share part of the Hobart City Council myself now, in Lenah Valley and New Town. The member for Hobart has done a good job of outlining their position.

I have the Glenorchy City Council as well. I have had a conversation with the mayor, Bec Thomas. She said that the council does not have a formal position but they have had informal discussions, and it is her feeling that the council will support this move for compulsory voting, and that the one to five provision within this bill would be a positive for our community in terms of informal voting.

Compulsory voting is an important step forward to enfranchise more of the population. Local government impacts many of us, and if it can raise the profile of local government, raise

the profile of local government candidates and the community interest in the decisions that are being made on our behalf, that can only be a good thing.

As the member for Rumney said, compulsory voting in local government elections has been a longstanding Labor policy.

**Ms Forrest** - Despite the former leader of government's best efforts it failed.

**Mr WILLIE** - 2013.

**Ms Forrest** - Yes.

**Mr PRESIDENT** - Harsh words indeed. We do not reflect on previous leaders in this Chamber.

**Ms Forrest** - My apology. Or current ones.

**Mr WILLIE** - Depending on how the vote goes, you will potentially be in the hot seat again, here.

In brief, I have spoken to my community and I support this move.

[3.12 p.m.]

**Ms WEBB** (Nelson) - Mr President, in the debate on the move to suspend Standing Orders to debate this bill, we covered some matters relating to process. I will read a couple of those at the beginning of this contribution to make sure it is part of the record of the debate on the bill itself.

As I said, earlier, I am concerned at what I see as a deep irony - that we are making the case to champion and to strengthen a tier of government by a process which is in fact a corruption of appropriate process here in this sphere of government and parliament, and the democratic process here to properly consider bills. That is extremely unfortunate.

I see an associated irony, too, in much of the commentary about local government being such an important sphere of government, and that we have to make sure we elevate it by, say, the introduction of compulsory voting.

All this acknowledgement of its importance, but at the same time that sector was entirely disregarded in terms of consultation. It is ironic to be claiming to strengthen democracy while you undermine its processes and to claim to be acknowledging the importance of a tier of government, when at the same time, you have ignored them entirely before you brought this bill to the House. I want to have that irony noted on the record.

In my view, it is inappropriate. And yet, here we are. We did not win the argument in terms of suspension of Standing Orders, and we are debating this bill, unfortunate though the process has been.

As we heard in our briefings, there has been a history of discussion on some of these issues in the bill, particularly in relation to compulsory voting. There has been a history over a couple of decades about the introduction of compulsory voting in local government. Some

other members have canvassed this in their contributions. There has never been a consensus achieved on the issue. There has never even been majority support achieved on that in the times it has been put to a vote, both within that sector and within this place. To my mind, that makes process even more important in how we go about doing this, and not because we expect appropriate process to necessarily achieve consensus.

It is likely that, had there been a better process to bring this bill here, there still would have been a variety of views in the community, the local government sector, and within this place. What we would have achieved through proper process, however, is that we do not get to the end of it and have people feel that they have been hard done by in being part of a public conversation about an issue.

That is why proper process is important. Not because it delivers consensus, but because it means that you have credible disagreement at the end. Everyone feels at least there is an appropriate way forward, and they have had a say in the process. We have been deprived of that in this case, and that is unfortunate, because it means that if it is implemented, those people who do not agree with elements in this bill will always be able to point to this failed process and have a gripe about not being allowed to properly participate in the process.

We have done ourselves out of that. What a shame. If I was in the local government sector, I would be feeling very concerned about the readiness of this Government to put aside agreed protocols around communication and consultation - even if the bulk of that sector agrees with the content of what is going through here. I feel very nervous that agreed protocols are disregarded so lightly to bring this through, because the next time this happens it might be something the sector does not wholly agree with. It might be something none of us may agree with either.

It is hardly recognition of the importance of local government as an equal tier of government if you disregard your agreements about how you will interact.

It is particularly unfortunate that we see the Government behaving this way during the period of review and reform of that very sector. We have a framework in place around that process, and this is being done completely laterally to that. It did not have to be the case. No argument has been presented to us that this could not have been done within the context of the review and reform process that is already underway.

The only argument put to us is about the need to be in time for the October elections this year. My goodness, we have known for four years those elections are coming. If those elections were some sort of deadline for particular parts of the reform, the Government has had ample time to progress all of these matters without rushing through at the last minute. I believe it is more about putting a stamp on things because the next elections look a little bit too far away and, gosh, we would like to make our mark.

Mr President, having noted my views about this process, I will briefly reflect on some of the content of the bill.

I will start with the element of the bill that relates to compulsory voting. I put on the record that I quickly reached out to the Hobart City Council and Kingborough Council as the relevant local councils in my electorate. The member for Hobart has already spoken about the position of the City of Hobart and already put on the record some of that. I reiterate for

completeness in my contribution that what I received back from City of Hobart was, given the short time frame of the announcement, they cannot provide an update position but their previously briefed position can be put forward. That includes that the council supports compulsory voting and has made that clear in representations previously into the legislative review around local government.

I quote from an extract to their submission to that local government legislative review process in 2019:

The council has long held the view that compulsory voting is required in local government elections. This not only assists in engaging the community in local issues, but also provides a wider franchise or mandate for those elected.

In a non-compulsory voting environment, significant local issues, current at the time of an election, can skew an election outcome through the mobilisation of specific interests while there remains a large non-voting cohort. Compulsory voting would assist in achieving a more balanced result, representative of the community as a whole.

I note further, they also in their submission point to the greater opportunity to engage with younger residents and ratepayers in compulsory voting.

I am putting that position from Hobart City Council on the record. I will speak more about some elements of that in a moment.

In terms of Kingborough Council, I reached out to them for their position and the reply I got back was, in part - I will quote a comment here on the compulsory voting:

Kingborough Council has, for a number of years, being supportive of compulsory voting for the local government sector.

The last time this matter was considered at an LGAT meeting, Kingborough voted in favour of compulsory voting.

This is from an email I have from Councillor Paula Wriedt, Mayor of Kingborough Council.

They addressed this matter at a workshop on Monday night, after the announcement had been made this bill was coming and feedback was sought from the councillors about the proposal.

They note they have some new councillors since it was last discussed, and the email here says that:

Based on this discussion, I can advise you that the majority of Councillors in attendance were in favour of compulsory voting.

The email goes on to say:

A few questions and issues were raised as follows:



- The cost implications to councils. What will the cost impact of the move to compulsory voting be, given that these additional costs are currently unbudgeted for, and most councils have finalised their 2022-23 budgets?
- The fact that this was progressed without consultation.
- There are other pressing local government reform matters that councils via LGAT, have nominated as priority issues, namely reform of the General Manager's role by transferring responsibility of it to the Tasmania Electoral Commission. One person, one vote. Citizenship requirements for eligibility to vote, and caretaker provisions. Something that Kingborough Council are determined we will enact ourselves in any event.
- Flow-on of enforcement costs for not voting.

There is a range of questions and issues raised by the Kingborough Council when they discussed the matter recently. Some of those have already been brought up by other members and we might return to a couple of those in a moment.

I wanted to put on the record that from my electorate, the two relevant councils are in favour of compulsory voting as it stands at the moment. They have raised a range of other issues, and I would say in a general sense, I am certainly in favour of compulsory voting.

We benefit from compulsory voting in this country, broadly, in a range of ways. Not having to turn out a vote, in the first instance, means you do not necessarily have to be going for the fringes and the extremes. As Hobart City Council highlighted, you do not necessarily get skewed by particular issues jumping up and people coalescing around that issue to bring a large vote just on that issue. That it is really valuable to us.

I do wonder about the benefit it gives to party-aligned candidates. A few other members here have discussed the issue that perhaps numbering, say, one to 12 is difficult because you might not know 12 of the candidates running. That would always be the case too, when we are numbering up to 12 for the Senate. Often people think about the label above the candidates rather than the candidates themselves. We could assume that having a party label above you will potentially be more beneficial under compulsory voting in a local government context, as it tends to be in other contexts.

I am not making a comment about whether that makes it more, or less, advisable. I still think compulsory voting is extremely valuable because of the enfranchisement it gives the whole community, and the engagement it encourages from the whole community. I suspect that if this comes to pass, we would see a change to the way our councils look in terms of elected members' alignment with parties.

I acknowledge the point made, including from Hobart City Council, that compulsory voting will lead to more younger people voting in that sphere of government. It would be a positive move to have younger people involved in the selection of the people representing them in local government.

The issue of costs is interesting. It certainly would be a larger cost to administer a compulsory election. I spoke with the Electoral Commissioner to clarify a few matters in this bill. I asked him if the cost of a compulsory election had been determined. The commissioner indicated a ballpark had been provided to Government but - appropriately - he was not able to provide that to me. It is up to the Government to put that out into the public domain. It would be an interesting exercise in transparency to understand what the cost impost would be, and to understand who is going to bear that cost. As Kingborough Council pointed out, they have not accounted for it in their 2022-23 budget. If the state government bears the cost, have we accounted for it in the Budget that we are contemplating right now?

I also asked the Electoral Commissioner whether the commission had provided written advice to Government about this bill. The answer to that was 'no'. A copy of the bill was provided to the commissioner in recent weeks.

I understand that the commission provided advice to Government on the degree to which the bill would fulfil the intent of the policy behind it. The commission does not take a view on the matters, including whether compulsory voting is advisable, but can comment on the intent and how well the legislation delivers the intent. The commission can also comment on whether it believes it would enhance enfranchisement in this state.

I will come back to the Electoral Commissioner's comments when I talk about the other aspect of the bill.

Overall, I consider the compulsory voting aspects of this bill are positive. I believe it will be relatively well supported in the larger councils where turnout is currently quite low, and where it will make the most difference. For those councils who are not so inclined towards it, the impact would be less because their turnout is quite high anyway, so it is not a great deal of difference.

Again, we are doing this on the fly. It would be preferable to have more time to consider this more deeply, and to have better advice about the likelihood and potential impacts of making this change.

The other aspect of the bill is about ensuring that votes can be counted wherever possible to mitigate informal voting. It appears that has been a trend over the past few local government elections.

The bill brings in the minimum one to five numbering, with the potential for people to keep numbering past that. There are vote-saving measures to ensure that if you number past that, but make a mistake, your vote will be counted through to the point at which that mistake was made. This is derived from noting the increase in informality that was occurring, particularly in larger councils that had a larger number of elected members to be elected and also a large number of candidates. The potential for confusion and for losing your way was higher. At page 5 of the 2018 Local Government Elections Report from the TEC, under the heading of informal voting, the commission commented that there was a higher level of informal voting in Hobart City, Launceston City, and Clarence City. To quote from the report:

Parliament and the local government community may wish to consider reducing the required sequence of preferences (perhaps 1 to 5, similar to the House of Assembly).

A similar comment was made on page 7 of the report from the 2014 local government elections, albeit with a little more commentary -

It seems reasonably clear that larger fields of candidates and a longer required sequence of preferences have contributed to informality rates.

Parliament and the local government community may wish to consider reducing the required sequence of preferences (perhaps 1 to 5, as for the House of Assembly)...

I note that those two comments from the TEC in the 2014 and the 2018 reports point towards this kind of change. What disturbs me, however, is that while the TEC suggests that parliament and the local government community may wish to consider this, we have not thoroughly considered it together. We have not had time to look at the ins and outs of this, the potential benefits or issues, or perhaps alternative options to achieve the same ends.

That is a shame. When I made contact with the Electoral Commissioner, I asked about this suggestion of considering one to five, similar to the House of Assembly. I asked if there was any other reason to suggest one to five, any other particular evidence that pointed to that being the appropriate option, as opposed to say, one to six, one to seven, et cetera. In particular, I was interested to know whether the results documented from 2018, where we had a particularly high informal rate in those three council areas, indicated there was a particular problem past a certain number. From the informal votes made then, when people messed up their numbering. We can look at the information about informal ballots in that report from 2018, on page 18. What is our granular understanding of the informal votes made where they had messed up the sequence of numbers? Was it indicated that beyond five was problematic? Was it indicated to say beyond seven was problematic? Beyond 10? Whatever it might be. Did we have that information available?

That information has not been analysed and is not available readily. It could be, but it would involve going back and looking at 4000 odd votes for each of those city council elections from the last time, which, of course, we do not want to have the TEC do for us.

Where is the evidence? Why are we choosing this particular option?

It is concerning to have informal votes. With the balance here we are looking at putting in measures to reduce the likelihood of informal votes, so what risk are we putting in we will have votes that exhaust? That is the balance of exhausted votes versus informal; minimising informal votes.

I asked the Electoral Commissioner if there is any modelling to show us what these proposed measures might mean for this upcoming election, in terms of the reduction in informal votes. Have we modelled, have we analysed what we could expect to see in terms of a reduction in informal votes? He explained that analysis is not possible to do because of the various factors around an election, and it would make it virtually impossible to do that at this point in time. It is a shame we cannot do that.

I am quite concerned about exhausting votes. Again, it becomes something that can lead to less nuance in choosing our representation, if people's votes exhaust.

I note and I am very pleased to see the proposed format for ballot papers in the bill. It does its best effort to direct people toward numbering higher than five. It sets an expectation you number up to the number of candidates while indicating then the minimum is five. It is really important and pleasing to see that explicitly laid out in the ballot papers.

It is my understanding, while I certainly was not involved when it occurred, when we moved to postal voting in the local government elections - I believe when postal voting was being introduced, there was a process where there were actually two trial elections utilising postal voting before it was actually changed in the act. It had a bit of a suck and see before we actually changed our legislation and made it permanent. Others might correct me if I have the wrong end of the stick on that.

In light of that, because we have not canvassed the one to five change as thoroughly as there has been a history of compulsory voting being discussed and canvassed in the community, I was wondering, if this goes through, could we look at the October elections as being a trial for these changes, and whether there would be a willingness in the Government to commit to a formal review after those elections of the impact of that change?

I do not just mean the TEC report that will be done anyway. I mean a review that interacts with the TEC, with the local government sector and the broader community to assess the appropriateness and how the one to five change went. Whether the Government will commit then to having that done and if there is tweaking, more nuance or a different way forward we need to think about. We could do this in the second tranche of things that come through. We know there are further things coming down the pipeline in the local government sector around legislative reforms. If this passes now, then we can consider the October elections as a trial and a commitment the Government is open to a formal review of that and the idea we could potentially be faced with a situation improved further, within those other tranches.

I also asked the Electorate Commissioner about whether any modelling had been done on to what degree there would be exhausting a vote under this model, if it was brought in, in the upcoming elections. Again, the Electorate Commissioner said it was very difficult and we cannot really model that. Essentially, because we cannot model what would happen in terms of exhausting votes under this proposed change, we cannot model what necessarily we could expect to see in terms of decrease of informal voting other than a general expectation it will decrease. It is very difficult for us to assess that balance in what we are seeking to achieve - that balance of decreasing informality, while not risking too much in terms of exhausting votes. It is difficult to do that without the evidence, and a good reason to potentially contemplate should this bill pass - to contemplate and consider the October elections as a trial, and there be an expressed willingness to review and be open to potential nuances or adjustments in further legislative reforms coming through if necessary.

That covers the points I wanted to make on the content of the bill and at least I made clear the representations and the views of the councils within my electorate. I have shared my thoughts on the two main elements of the bill and some concerns I have. Again, for the record, my absolute rejection of this as an appropriate process for this bill and the fact it really is ironic in that it undermines its intent to strengthen our democracy by the very process being used. I will complete my contribution.

[3.43 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, that good old chestnut back with us. I had to remind myself in 2013 how I voted on this. Thank you for seeking out the *Hansard*, Mr President. I thank the member for Launceston for finding the exact quote where I said I will not be supporting compulsory voting at that time in 2013.

Now obviously, I have some new electorates, I am no longer the member for Aspley. I had seven local government areas back in Aspley. Now I have six.

We received the letter on 23 May from the minister and I thank him for not only being proactive and writing to all of us, but also for his appearance at our briefing last week. It does not always happen in this place, when ministers come, and certainly not ones who say sorry about seven times. Again, I thank him, and acknowledge the fact that the very new Minister for Local Government gave us that information and also said it is not the way he would have preferred to have done this. I agree, it is not the way we should have done this either. Here we are and there are parts of it I do support, obviously, and that is the simplified preferential voting, the one to five, and some of the vote-saving measures. I hear and take on board what the member for Nelson has said on, why was the number of five chosen? Why was it not six, seven or 10? We have councils that have 12 members to be elected. We will see the outcome of that review mid-year next year, 2023, and it might well say let us reduce the numbers. So, is five the right number to have here, and hence the review process?

**Ms Webb** - The only link in the TEC report is that it aligns with the House of Assembly, and yet now we have a proposal perhaps the House of Assembly will be voting one to seven if they restore their numbers.

**Ms RATTRAY** - It is a moving feast in that regard. The question the member for Nelson put to the Government about a review, on that one to five, may well be something the Leader might like to ask the minister for his view on, because it might well, should this pass the House, which is likely, head into the Committee stage.

It is appropriate that I share the views of my six local government areas. The Meander Valley Council has already been read out and was short and to the point. It is hard to argue against Mayor Wayne Johnston's response that it was felt the community would be greater engaged in local government if the legislation was passed. I absolutely acknowledge if that is the outcome, then that can only be a good thing. I thank the mayor for responding.

I also had a very swift response from Break O'Day and asked if I am able to read that out, and Michael Tucker starts with:

Good morning Tania,

Thank you for your concern re elections.

My concern was that we have received this, and we will possibly be expected to vote next week. This was sent out on Friday 27 May and I sent my concerns to all those local government areas on Thursday 26 May. The response came back and it says:

At the present time, we have emailed all councillors and so far, we have only 1 who is for the amendment. Having said that, our council has not been

consulted and has not workshopped this or had a council meeting to have a formal council position on this amendment. I am, as Mayor, unable to give a formal position of our council on this apparently urgent amendment. This is a great concern, because whether the amendment is good or bad, it seems the Minister simply does not care about consultation.

We have heard that a number of times, even when members have supported compulsory voting they have been somewhat critical of the process. He goes on:

I must add that I feel concerned that any amendment that has no consultation with members is simply a Master-Servant relationship and if that is how it is going to be, I am concerned also as to what the recommendations may be at the end of the local government reform, and if there will be any consultation with its members, or will the Minister simply use the recommendations that he wants to use, and ignore any that may not suit his agenda? We need this to be held off to the end of June to give all councils the opportunity to have a council meeting and have a formal council decision on this amendment as due process needs to occur.

Regards,  
Michael Tucker, Mayor of Break O'Day.

Then I received, from the Dorset Council, from the general manager - I also have had a visit from the mayor who endorses what has been supplied to me in written form. When Michael Tucker responded to me he also cc'd in all the other local government areas and this is Dorset Council general manager Tim Watson, Friday 27 May:

Well said Mick, they seem to think Local Government is broken, but can't articulate what exactly is broken. Would be good if they looked in their own backyard and focused on the unaccountable vindictive and incompetent State Government bureaucracy. God forbid, that might mean Ministers calling the shots rather than the executive level of the bureaucracy.

I have permission to share that and as you can see, Dorset Council is unimpressed, and as much as anything the fact it was not articulated the reasons why this process had been put forward without any consultation.

Received from the Northern Midlands Council, this is the corporate services manager and I know Marie Bracknell also acts as general manager on many occasions and has been a long-term employee of Northern Midlands:

Good morning Tania,

Our council members have mixed views on compulsory voting, however, the most concern with this proposal seems to be the potential loss of representation in the lower populated areas of the municipal area.

That was well articulated by the member for Mersey when he talked about larger areas of municipalities have often well-known names and smaller areas do not have the population to have a direct representative from their particular area. Often, we find with the larger

populated areas, for instance, in Dorset, most of the elected representatives are from Scottsdale or Bridport and up over the hill heading up the coast, no representatives. I have seen this a lot in my time through local government

**Mr Gaffney** - In New South Wales they still operate the ward system for that very reason, so there is representation across the whole municipality and we had that when we first changed over in 1994.

**Ms RATTRAY** - Then it faded away and then it was opened up. It is very difficult for those smaller communities, even if they have a very strong candidate to have them elected because they do not have the votes the major populations have when they have more numbers.

With Kentish I had not received a formal response. From speaking with my colleague, the Leader, who shares the Kentish municipality with me as she represents the Sheffield area and I the Railton, Beulah and Kimberley areas, I understand there is general support for the principle and the intent of what the proposed changes will bring. I do hope Kentish does not mind I have shared that, because it is important to have all of those on the public record.

As you can see my position is going to be somewhat difficult when I have three yeses, two noes and maybe, I am not sure, from the local representation for those smaller areas. I am feeling somewhat compromised here, because I am not adverse or opposed to having compulsory elections. I thought it might be worthwhile quoting it again, because it is still relevant today, so in my contribution in 2013, how did we get compulsory voting and compulsory enrolment? The Commonwealth first introduced compulsory enrolment in Australia in 1911. Compulsory voting came soon after, first in Queensland. The motives for the introduction there in 1914 had to do with party politics rather than high principle. Digby Denham's Liberal government believed that it would lose office at the 1915 election because its disenchanted voters would stay away from the polls while Labor supporters would turn out in large numbers. Compulsion was introduced to try to force more Liberal turnout. However, the increase from 75 per cent turnout in 1912 to 88 per cent in 1915 failed to save Denham's Liberals, and they lost to Labor. It does not appear that compulsory voting always delivers what you might intend. I still have that in the back of my mind.

I am definitely in the camp of 'why not defer the local government elections until 2023'. It is a question being asked by LGAT. It allows more time for everybody, including the review, to come back.

**Mr Gaffney** - Through you, Mr President, the review is to be back by June of next year, so that would still make a tight time frame.

**Ms Forrest** - Bringing legislative change would.

**Ms RATTRAY** - Fair point. Certainly, it would be completed, and the recommendations could be considered. I am not certain if there would be appropriate time for them to be acted on. What if the review does recommend fewer elected representatives - for example, 12 becomes nine; nine becomes seven; seven may become five? We have to consider that this is a review that has been embraced by local government. The former minister for local government was very firmly in the camp that this is what we need, to progress local government reform. We have heard time and again about the huge respect we have for local government, but it seems to me that the lack of consultation shows that huge respect is not there. I certainly

have it. But without an opportunity for those councils to have a council meeting, or a formal workshop, where everyone sits around the table and puts in their two bobs' worth -

**Mr Gaffney** - You raised a really good point earlier.

**Ms RATTRAY** - Remind me what it is, I would be happy to hear it again.

**Mr Gaffney** - Through you, Mr President. You mentioned the mayor's question, about what the recommendation is going to be next year from the review, because of the process happening now. If this was deferred, that would not be an issue. They would be quite confident in that. However, already they are starting to say, 'Well, what else are they going to change with the recommendations; what other legislation are they going to bring in?'. I believe it is already undermining the good work that the review could have, for the sake of five months or one election. That is what concerns me - not the topic itself, but the change of the process halfway through.

**Ms RATTRAY** - It is a fair point, and certainly made well by the mayor of Break O'Day. But it was made in his capacity as Mick Tucker, councillor and mayor, not on behalf on his elected members, because one only response came back in support of the amendment. We often see that the people who are not supportive do not always assemble themselves as well as you might expect.

I also recalled some of those local government AGMs from a number of years ago - and they are a number of years ago, for me. I remember Max Burr, and he lives in Scottsdale now, so I see him regularly. I have not had a chance to talk to him about this. However, every year, he would put forward a motion to have local government recognised as the third tier in the Constitution.

It has failed to reach that status, but again, here we are talking about how important local government is, and the work that local government does. I believe that somebody already said, it is not just about roads, rates and rubbish anymore; although from time to time, there should get a bit of focus back in those areas. They certainly have a wider range of services that they deliver to our community than they have ever delivered, certainly in my eight years on council. When I read the fortnightly reports that come in, and I see what the various motions are, I think, gosh it is a long way from where we used to be. They certainly do have a significant role in our community.

The cost is relevant. It might have been the member for Hobart who said it should not matter what the costs are. Well, the costs have to be paid by somebody, and I know that councils have already set their budget for this year. Where does the money come from?

**Mr Valentine** - Through you, Mr President, I was not ignoring the costs. I was saying, as part of democracy, is the cost something that needs to be considered? It might be that the Government provides further funds. I do not know.

**Ms RATTRAY** - That is a question that I would appreciate some feedback on, from the Leader. I am sure that a text message or an email has been sent to the minister, because I recall a member mentioned that the Government had indicated that they were prepared to cover some costs. I need to understand whether any costs are being covered by the state Government. At the end of the day, they take it from us.



**Ms Armitage** - If you are referring to my comments, it was back in 2010 when David Bartlett was the minister for local government.

**Ms RATTRAY** - The commitment by a former premier may well still stand and be acted upon by the current Minister for Local Government, and the current Premier.

By interjection, the member for Mersey said if it is local government, it is paid for by the people. If it is state government, it is paid for by the people. Have we had that conversation with our communities about whether they are prepared to foot the bill? No. Others may have, but I have not.

It is not something that I had on my agenda when I went through my election campaign, because I was unaware that on 23 May I would receive an email from the current minister saying, this is my call and this is what we are doing.

It was interesting that at this morning's briefing, we were told by the advisers that these things go to Cabinet a lot of times before they are acted on. The minister has only had the portfolio since 11 April, and I imagine that there have not been too many Cabinet meetings between 11 April and when we received the email, and somebody started drafting the bill. I expect that it has probably only been to Cabinet once; but we will never know. I believe that this one certainly did not take much Cabinet discussion, or go to Cabinet many times, to arrive at a position.

Mr President, I have heard that there may be an amendment coming through. Is that correct? I would be interested to know if that is the case for the general manager's roll and who is eligible to be in that general manager's roll.

**Mrs Hiscutt** - I do not want to speak on behalf of the Labor Party but it will be something to be dealt with in the next tranche of this bill.

**Ms RATTRAY** - So it is not intended that it be dealt with at this stage even though access to OPC has been provided for the Labor Opposition, to progress some clarification of the general manager's roll?

**Mrs Hiscutt** - If any Labor members here wish to speak on this, I am happy to take that back, but it was decided that this is not the appropriate place for that amendment and it will be progressed at a later date.

**Ms RATTRAY** - Thank you, I appreciate that. I will discard that from my mind at this time although access to the general manager's roll and who is entitled to have access to it is something that has been spoken of at various times when we have debated matters on local government and elections. I am sure everyone knows members of local government who are not residents of the areas for which they sit on the council. They come by the general manager's roll through owning a business or being a manager of a business. It is always an interesting one.

I have already touched on the consultation process and what I consider is a lack of consultation. I wrote down, it was following the member for Mersey's contribution, that there is an agreed five-week consultation period protocol in place; that cannot possibly have been met in this instance.

**Mr Gaffney** - There was a protocol at the Premier's Local Government Council in 2019. The premier at that stage said there would be continuation of the intent of that protocol. All heads of agencies were sent letters letting them know that the protocol period was still intact.

**Ms RATTRAY** - However, perhaps not set in stone. Most people who partake in a protocol agreement would expect that it would be honoured. If the President of the Local Government Association, Christina Holmdahl, gave her word, I feel sure her word would always be something you could take as gospel, and that she could expect the other party to honour the agreement as well.

I am not necessarily opposed to some parts of the bill. I feel the ballot-saving provisions would be useful. We all know that sometimes people get a bit confused and may not end up with the appropriate numbers but you can certainly tell where their genuine intent is. I want to see that part of the bill proceed.

As for the compulsory voting, I wish there were about seven more members to speak for some more time to decide. I am still not sure. Three yes, one unconfirmed yes, but an intent that we believe is a yes, two definite noes and one - Northern Midlands - with somewhat of a question mark. Is that enough in my mind to say yes at this point in time? I will listen to further contributions and I am certainly interested in how the Government responds to the question of how this extra cost is to be paid for. In the end someone has to pay for it and we all know that the government's money belongs to the people, and local government money belongs to the people they represent. Has local government had time to ask its people whether they are prepared to pay extra to have compulsory voting in local government elections? That is the question in my mind.

[4.10 p.m.]

**Ms FORREST** (Murchison) - Mr President, I have listened to the debate and found that even among members who currently have or have had local government experience there is a divergence of views, which reflects the divergence of views in local government itself. I said that in 2013 so I thought I would read it again. It was pretty much where I started.

**Mr Willie** - There might have been more local government representatives in the Council then.

**Ms FORREST** - There probably would have been, slightly more.

**Mr PRESIDENT** - I believe the other place has more retired mayors than we do now so that old joke has fallen flat.

**Ms FORREST** - At the time there was not so much debate, to my mind. I listened to what was said towards the end about the compulsory voting. It was more about the dual responsibilities. That was where the real contention was at the time. I made the point in my contribution also that I had sought feedback from the councils on a number of occasions and had to basically badger them to get a response. There was an exchange with the former member for Rosevears, Kerry Finch, about how much consultation there had been, so I do not know what we do here. As I said by interjection, it is consultation to death or none. Maybe there is a happy medium but I am not sure what it is.

In broad terms, this bill seeks to do two things. I am not going to go back over the process issues. If anyone wants to know about those comments then they can read that speech and I do not need to repeat any of that. I want to speak about the bill and the role of local government in that. This bill seeks to do two things, predominantly: to make voting compulsory in local government elections, something that I have supported in principle for some time because I believe compulsory voting allows those whose voices are not often heard and those who are disenfranchised a much more robust opportunity to have their voices heard. That is good for democracy, as other members have commented. It is the right thing to do in terms of ensuring that voices are heard. It is much harder to have particular interests captured and then reflected around the council table that may not be representative of the views of the broader community. The more we can engage people in our democracy, at whatever level of government, the better.

The other key part of this bill is to introduce two vote-saving measures to try to reduce the rate of informal votes.

Before I move on to the nature of what the local government is, I want to talk a bit more about compulsory voting. I do not know if many of you here remember the first time you voted. I do. I remember going into a polling booth. I must have been 18 when I could vote. It is a long time ago. When did the voting age become 18?

**Ms Rattray** - A long time ago.

**Ms FORREST** - Anyway, when I was old enough to vote - whether I was 18 or 21, I cannot remember - I still felt very young, inexperienced and vulnerable. That is how I felt, fronting up to this polling booth with this box and a pencil and a piece of paper with names of people I had no knowledge of at all. I had seen some posters around the place. You see a bit of this but then it was up to me. I was keen to exercise that right, but it felt very daunting. We still have a body of work to do to encourage people to understand our democratic processes, what the various aspects of our government and levels of government are and help them to engage in a meaningful way.

Those of you at the reconciliation breakfast this morning will remember a question from one of the young people that came with the commissioner for children in her youth advisory council. Her question to both the speakers, which was Kaytlyn Johnson and Thomas Mayor, was 'what is a referendum?' Because they talked about the referendum is a step that was important in the pathway to treaty truth. And it was answered very well by Thomas Mayor in his explanation to a young person. I thought how courageous of that young person to put her hand up and ask that question in a room of nearly 600 people. What courage. I could not have done it.

But it highlights to me the fact we do have a lot of work to do, and making voting compulsory at local government level encourages that right from the very grassroots, from the people who are closest to the people. The local government is the level of government closest to the people.

**Mr Valentine** - To inform the member for Murchison, it was 1973 when the vote changed.

**Ms FORREST** - Then we went to 18. No, it would have been when I was 21. I still remember it, though. I do not remember which booth it was in, but I remember going in there,

and thinking 'I have got to do this right' and having very little background knowledge. I was already a registered nurse by the time I was 21.

**Mr Gaffney** - You would have been 18. You would have voted at 18. You would have been young enough then. Because in 1973, it became 18.

**Ms FORREST** - Oh, 1973, when it became 18. I would have been 18 then.

**Mr Gaffney** - Unless you are older than what you have told us.

**Ms FORREST** - I might be.

I will get back to the facts of the bill. I wanted to read a couple of bits out about local government. It is important we are not doing anything extraordinary here in amending a bill related, or introducing legislation related, to local government. To read from the - this is really exciting reading - *The Constitutional Systems of the Australian States and Territories*. This is an older version as this print is 2006. It says here of local government:

The third level of government in Australia, the system of local government within each State and territory, exists by virtue of State law. It is almost as old as the grants of self-government to the States made during the second half of the 19<sup>th</sup> century. There is no constitutional guarantee under the Commonwealth or State Constitutions that a local government system in each State will remain in place.

They are only there because of this place.

Nonetheless, following the example set by Victoria 1979, all State Constitutions now formally recognise local government as another level of elected government within their respective States. The Victorian Constitution provides the model provision in this respect: 'Local government is a distinct and essential tier of government consisting of democratically elected Councils having the functions and powers that the Parliament considers necessary to ensure the peace, order, and good governance of each municipal district.'

The Constitutional Commission in 1988 recommend the insertion of a new section 119A in the Commonwealth Constitution to require each State to provide for the establishment and continuance of local government bodies in accordance with State law. This proposed amendment was defeated at the 1988 referendum. Such a provision would have prevented a State from completely abolishing its system of local government. In Queensland, a referendum is required to abolish its system of local government, although it is not effectively entrenched. A similar position exists in South Australia, where instead of a referendum, an absolute majority of members of each House is required. Individual councils, though, remain vulnerable to dismissal by their Executive Government except in Queensland and Victoria, where this can only occur with parliamentary approval.

Given the significant contributions of local councils to the provision of key public services throughout Australia and their accountability as democratically elected institutions of government for the taxes they impose, the Commonwealth Constitution should formally recognise the system of local government as the third level of government in Australia.

The book authored by George Williams, Sean Brennan and Andrew Lynch, *Australian Constitutional Law and Theory*, under the chapter Federalism and the Engineer's Case, says:

The system of federalism created by the Australian Constitution involves two tiers of government in which power is divided between the Commonwealth and the States. Each tier has its own institutions of government, with an executive, parliament and judicial system. Although Australia also has a system of local government, this is not mentioned in the Constitution. Local councils exist only as long as they are maintained by the States that have created them. Two attempts to change this by recognising local government in the Constitution failed at referenda in 1974 and 1988.

Section 45A(1) of the Tasmanian Constitution Act, states that:

There shall be in Tasmania a system of local government with municipal councils elected in such manner as Parliament may from time to time provide.

Regarding some of the comments made by some elected members in our local government areas, we need to come back to the fact that we are absolutely doing everything within our power here in this place. Even if they were not consulted this time, they have been in the past. Views and situations have changed and I accept all of that, but there is the power within this parliament and under the direction of the government of the day to bring forth such legislation.

**Mr Valentine** - Otherwise we would not be here.

**Ms FORREST** - Local government would not exist as a level of government without the state.

**Mr Valentine** - We are responsible for the structure.

**Ms FORREST** - Yes; and whether or not they exist. And we have the power to make laws about them.

Some members have talked about compulsory voting in terms of postal voting. I believe COVID-19 showed us that there are some people who much prefer to vote at home. I have talked to people who are quite able and not vulnerable who chose to get a postal vote in the federal election this time, mainly because they could and you did not need some excuse. I pre-poll, because I was going to be in Victoria on election day. I did not have to say why I was doing it; there were times you had to justify it - being overseas was a fairly good reason, back in the day when you could travel. This time, it was simply, 'You are a pre-poll out of region - you go over here', and that was it.

I have talked to other people who chose to get a postal vote because they wanted to sit down and take their time over the vote. They wanted to read up on some of the candidates. They did not want to then stuff it up like I did when I got to number 23 and 24; but I went back and got a new Senate paper and fixed it, because I was going right the way to 39. But voting at home, you can do your list on a piece of paper and then make sure that you get it right on your ballot paper, and you do not feel pressured. That is one of the things that I felt when I walked into that ballot box the first time. I felt pressured, I felt very uncertain, I felt like someone was going to be watching what I am doing and how long I take over this. I do not worry about that now, but, as a young person it was a very different experience.

Let us make it as easy as we can. Maybe the family can sit around the kitchen table and have a chat about who are these people, what do they stand for? You would hope parents would not direct their young adult children in how to vote, but rather would help them understand the system if they know how it works themselves.

The Government has a body of work to do around voting, regardless of what happens with this legislation. I asked in the briefing and I ask it again of the Leader, because I need a clear answer. I am not of a mind to hold up the bill into the Committee stage, because we will not get there until after the answers the Leader gives; it might depend on what she says here.

We know from the briefing that local government was engaged in a priority list of what they wanted to see happen before this election this year in October. They identified one to five voting as a priority to reduce the number of informal votes. The other measure was that you have to vote to a number and if an error occurs after that, it does not invalidate your vote; it only invalidates the point below that error. That does not really seem contentious. It seems as though LGAT is on board with that and they have had discussions about it. Kevin Bonham has made very clear and articulate comments about the value of such a move.

What we did hear was that making voting compulsory was a matter that was not consulted at the time; it was not on their priority list; and it came as quite a surprise that it was happening, according to the LGAT representative who spoke with us.

I consulted my five local government areas. I have not heard back from all of them, and I have not had time to press them. There was mixed support. Mayor Quilliam from Circular Head commented, 'Why make people vote if they are not interested?'. I respectfully do not agree with that opinion. I believe we should be encouraging people to participate and making it as easy as we possibly can to do that.

The mayor of Burnie, Steve Kons, was very much of the other opinion - that they should not come whingeing to us if they have not voted. He was not quite as blunt as that, but that was the approach.

**Mrs Hiscutt** - That is what I got from him also.

**Ms FORREST** - Yes, we share the Burnie municipality. If we were to carve out just those provisions around the vote-saving measures and remove the sections related to compulsory voting, does that create a problem within the bill? I want them to answer this honestly. I want to hear if we could have those as standalone provisions and then deal with the compulsory voting later on. I am not saying that that is what I want to happen; I want to know if it can happen - because, as I have said, in principle I support compulsory voting. However,

I am concerned that there has not been proper consultation at this time with this clearly on the table.

It might have been on the table in 2013 but it was not on the table this time, not directly. It may have been in the background, one of those things that is being considered that will be raised again in LGAT conferences and things like that, but it was not on the list of priorities.

**Mr Gaffney** - Through you, Mr President. The member has raised a good point because in the 400 submissions they have had in the directions paper, you are right, compulsory voting was not raised as an issue. A lot of the people who went in to talk about what was in the paper probably did not even bring that up as something to have debated. It was not on the agenda.

**Ms FORREST** - They may or may not have, but I am interested in whether that could happen. It is not necessarily a break point for me. I want to understand what is possible here because that will determine whatever happens with the second reading and I assume it will be supported into the Committee stage, at least from what I have heard around the Chamber. That is the time we make such a change.

Most other members have talked about the process, and I did speak about that earlier. I do not want to go back through those comments, because it is all very clear and on the record, and I understand why people are feeling quite frustrated.

However, I do ask, if this bill was voted down, what is the worst that would happen? The worst that would happen is that we would have an election in October this year; it would not be compulsory; we would probably still have a fairly high informal vote; and we would have to wait four more years for another election where it would be compulsory. That is the worst, in terms of doing nothing or voting this down.

If we support it as it is, then we have an opportunity for the Government - and they should pay for the promotion and public information; there should not be any questions about this, because it is Government legislation, they brought it in. They did not ask local government if they wanted it or not and so any promotion and public information should be funded by government. End of story. I know the Leader is going to clarify these matters.

**Ms Webb** - It was not just the cost of the education that was being asked about before, from other members, it was the cost of actually conducting it.

**Ms FORREST** - There are two aspects to this. The really important thing is those aspects of public education, the awareness raising we should have about how a democracy works, as well as voting in local government elections particularly, if it became compulsory. It must be funded by the Government. The other question around who pays for the actual increased cost of a bigger turnout - that has usually flown onto local government, is that still the case? That has been well articulated by the members indicating they would also like to hear the answer to that. Going back to the best that can happen, if the bill is supported, particularly with the votes having measures in it, then you should see a higher voter turnout.

The member for Hobart did ask some questions about informal voting and different frameworks with other jurisdictions. We did get a table with this. It was interesting to read this because there is no real consistency. I was responding to the member for Hobart about his

question on the number of informal votes when you have to mark a certain number. I want to read a couple of them, because it is vast and you cannot say one way or another.

In New South Wales: the number of votes to cast, they are instructed to mark preferences to half the number of vacancies and ballots are valid if at least one preference is marked. Surely that means going one, two? The turnout is 79.58 per cent, that is pretty good, compared with Legislative Council elections - what was your turnout, member for McIntyre?

**Ms Rattray** - It was 83 per cent.

**Ms FORREST** - It is slightly lower than that. With the mark in the balance in Queensland, I seriously do not know how this one works. It says that either one mandatory vote, voluntary to mark preferences, so you can just put one or you must mark as many preferences as there are vacancies. I guess that is pretty clear on the ballot paper, either mark one and you can go further or you go, I do not know. They only have a 77 per cent turnout.

Victoria must mark preferences for all candidates, but they do have single councillor wards in a default electoral structure, which is different. In 2020 they had an 81.47 per cent turnout.

South Australia, you must mark as many preferences as there are vacancies, so you have to go all the way. They had a 32.94 per cent turnout, so that did not work so well, did it? One message you can take from that is if you have to go all the way, and there is no choice, then you may not get such a good turnout and good formal vote from that. There is information then, and it was quite interesting to read because I do not think there is any particular one right way. We do know even from the federal election mistakes are made, inadvertent, some are deliberate. They will draw and write unsavoury things on the ballot paper.

**Mrs Hiscutt** - And draw things.

**Ms FORREST** - I was talking to some scrutineers about some things that were drawn on some of them. Particularly on women's ballot papers, a bit sad.

There are also people who genuinely think they are doing it right, like the member for Launceston, who talked about the older man who signed his ballot paper and made it invalid, thinking it was the right thing to do.

We need to make it easy for people, particularly in our regions, in some of the parts of our state where people have low literacy levels. It is all well and good to write nice clear instructions on the top of the ballot paper, but if they cannot read and comprehend it, it does not help anybody. We need to make this as easy as we can and help to educate our people into how to make their vote count. Surely this is what we want.

**Mr Gaffney** - In Western Australia they just tick. They might have five ticks.

**Ms FORREST** - I am not suggesting that. We need to educate people about the value of voting down the ticket to make your vote count. That is why I refuse to vote above the line in the Senate. I want to determine where my vote goes and I will. I vote across party lines and all over the place and always have the last spot for someone very special. It was a bit of a competition this year. I struggled, but that is my democratic right. We need to educate people



about if your vote exhausts that means after it goes a certain distance then your vote no longer counts in any further decisions. I do not think a tick or a cross is the right thing unless you only have two candidates in a by-election.

**Mr Gaffney** - Some people might say there are nine positions on council. I do not know whether that one is the best number one or that one is nine. I want nine people so they tick nine times. It gives each person a vote so it is easier than having to number one, two, three, four, five, six, seven, eight, nine, because a person has to decide if John is better than Betty.

**Ms FORREST** - If we are going to do preferential voting we have to have numbers because otherwise you cannot. If that is the system we want to work with we have to educate people about how it works.

**Mr Gaffney** - The reform would have done that.

**Ms FORREST** - I am not trying to change the voting system. I am acknowledging there are different ways it is done in the different states and other jurisdictions. What is important is whatever we decide on, it needs to be a model that increases the validity of people's votes, makes them count as far as they can to ensure the people who the majority of people want in this parliament or in the local government or wherever it is are the ones who end up sitting in the seats.

The member for Nelson did not get the most primary votes when she was elected. Neither did the member for Huon, but they are here because of preferential voting: if you could not have this person I want that person and that is how it works.

Mine was different. I led from the front all the time when I was first elected, which was very nice to do but it was still stressful. However, because you get the highest number of number one votes in an election where there is preferential voting it does not mean you are going to take the seat. Some people disagree with preferential voting and that is a choice. However, what we have here that we are dealing with is legislation that helps to preserve that and reduce the number of informal votes.

I will close with that comment that in principle I support the measures in this bill. I have been concerned about the processes I have already articulated. I want to know if this bill could be split, acknowledging that if we did split it, compulsory voting would not come in until 2026 should it be supported. It is for this parliament to decide.

[4.38 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank members for their considered thoughts along these lines and I have some answers here. They are in a random order so please forgive me.

To start with, the member for Nelson. The Tasmanian Electoral Commission was consulted in the review of the Local Government Act. The directions report noted that:

Advice from the Tasmanian Electoral Commission is that a minimum of one to five preferences would not have a material impact on election results as in most cases latter preferences are not required during counting.

The Tasmanian Electoral Commission has been consulted throughout the development of the bill, including on the design of the ballot papers. Successive versions of the bill were provided to the Tasmanian Electoral Commission and comment incorporated into the final version of the bill. A meeting was also held with the Electoral Commissioner, the Office of Local Government and the Local Government Association of Tasmania on 9 May 2022 to discuss the bill and how compulsory voting would be implemented in the October 2022 elections if the bill is passed.

There were a couple of questions on costs and there are multiple answers as we work through this. The minister has been quoted as saying, and I will quote the minister word for word:

The TEC's advice to Government is that there is will be an increased cost on counting more votes. In time, that will either be cost neutral or cost positive on the infringement notices that are levied.

The other commitment I have made in writing, already to LGAT and to the mayors, is that there will be no cost shift to local government at this election for increased costs. It will not cost them any more than it normally would to run their local government elections.

The extra costs will be taken care of out of the local government division's existing budget, as well as the campaign for this year's election.

The member for Launceston talks about postal voting. There are provisions in the bill that allow the Tasmanian Electoral Commission to consider reasons why individuals did not vote, including that they did not receive their ballot envelope. The TEC will make available places where people can pick up a replacement ballot envelope. Compulsory postal voting interstate shows it delivers higher participation rates.

Will there be enforcement of compulsory voting for this year? This is a question for the Tasmanian Electoral Commissioner. This is not a decision of the Government.

There is more to come if you want to wait until the end. There is more to come.

LGAT saying they do not know how it will work: LGAT has had the draft bill since 5 May. Compulsory voting was discussed with the General Management Committee on 10 May. A meeting to discuss how compulsory voting would work was held on 9 May. This meeting included the Office of Local Government, LGAT and the Tasmanian Electoral Commission.

Cost of advertising: the cost of educating the public is not known, but expected to be significant, in excess of \$100 000. The Department of Premier and Cabinet will fund that campaign.

The member for Hobart: do jurisdictions advise electors to vote less than the number of seats? Yes, other jurisdictions do. New South Wales advises electors to preference half the number of vacancies, rounded up. Western Australia allows for one vote regardless of the number of vacancies. There was a form sent earlier that was all on that. I know all members received that.

The member for Hobart and the member for Rumney asked questions on costs. The state Government will fund any additional cost associated with the implementation, promotion and enforcement of compulsory voting. Advice from the TEC is that the compulsory voting is likely to be cost-neutral or even cost-positive due to the offset of enforcement costs by fines collected in the future.

I wanted to reiterate that the minister has indicated, in this first election under the new system, it is his expectation there will be a strong emphasis on taking an educative approach in enforcement.

**Ms Armitage** - Can we confirm that it is education over punitive?

**Mrs HISCUTT** - It is at the discretion of the Electoral Commissioner.

**Ms Armitage** - You cannot confirm it will be educative over punitive?

**Mrs HISCUTT** - It will be educative over punitive.

The Member for Murchison asked could the vote-savings measure stand alone? There are no technical or legislative issues with separating the compulsory voting provisions from the vote-saving provisions. Postponing the compulsory voting provision would be a very significant lost opportunity for democracy at the local level, and we know that is why the minister is keen to progress this bill.

**Bill read the second time.**

## **LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2022 (No. 28)**

### **In Committee**

#### **Clause 1 - Short title**

**Mr FARRELL** - I rise as the member for Derwent to speak on this bill. I support the principle of the bill but I, like other members, am a little disappointed in the path that it has taken to get to this House. I have spoken to my two full councils about this - the Derwent Valley Council and the Central Highlands Council - and the mayors of both are agreeable with what has been proposed. The member for Elwick, with whom I share the Glenorchy City Council, has indicated that his discussions with the mayor there have also been of the same ilk.

**Mr Willie** - There is no formal position though.

**Mr FARRELL** - No, and it is likewise with the other councils.

I well remember the last reform bill in 2013. I did not until the member started bringing it up. Then, as the leader of the government, I managed to get most of the bill through except for the compulsory voting clause. I did then, and I do now, support compulsory voting in local government. It was voted down after much debate. It had not been supported by the Liberal Opposition in the other place on its way through. Naturally, I was disappointed, as after

following 10 years in local government I was convinced that bringing local government in line with state and federal governments by introducing compulsory voting would be the correct and democratic thing to do. It would also give value to a vote; if it is not compulsory, why bother?

The bill aims to do three things: make voting compulsory, introduce a vote-saving mechanism, and validate votes up to a level if there have been errors made. I believe there are problems with the current system of non-compulsory voting. During my time in local government, I had witnessed how some elected members would use non-compulsory voting to great advantage. It was understood by some that if you garnered support through your sports or social or business networks, you could get enough votes to get in, and that is fair enough. It also guaranteed a voter base for the next election. Some members with whom I was in the council did not even bother campaigning for their second term as they had all their ducks lined up and they were almost cocksure that there were going to be no surprises. This is an isolated example and I know most people who stand for local government do so with the best intentions and honourable intent.

In the 2013 debate, it was stated that compulsory voting would encourage party hacks. This had been raised several times. However, there are times when people with similar interests have a run for local government, whether that be developers or non-developers, pro-industry or anti-industry, progressives or conservatives. I was looking for some evidence to back this up when - bang, there it was in another member's contribution. I thank the member for Launceston for reading into *Hansard* the article from *The Examiner* of Wednesday 25 May 2022. This may go some way also to explain to the member for McIntyre that rather strange reply she got back from the Dorset Council's general manager which, to my mind, seems a little out of order and a tad aggressive.

These quotes are from different mayors and the member for Launceston did read some of them. The quote that I thought indicated to me what I was trying to get through is from the Dorset Council's mayor, Greg Howard, who said:

I am struggling to see the advantage because the people who usually vote in local government elections have skin in the game. I can't see there would be benefit in making people vote for elected officials they don't know.

The bit that I was worried about was the 'skin in the game'. It took me to some other social media comments from certain lobby groups and they are certainly not keen to see compulsory voting brought into local government elections. I can understand why, because they will not know exactly who they have to deal with when the council sits. It makes it more likely that those that are dealt with by lobby groups may change over from time to time. I believe there is a certain amount of control in non-compulsory voting.

It is my view that if this bill passes, and the measures within it are introduced, it will create a greater interest and understanding of local government. If people are educated properly through this process and given the value of having to vote, as they do in state and federal elections, that will augur well for local government.

The member for Murchison alluded to the conversation back in 2013 that was raised by the then member for Rosevears, Mr Finch, who some of us may remember - I will quote a little piece of his:

I could be, but I will be interested to follow that debate.

That follows on from some other comments.

As the member for Huon said, there has been no screaming cry from the electors. Councillors and aldermen have not been contacting me to talk about aspects of the bill that they are concerned about or supportive of so no screaming cry coming through to me either. It is hard to read why that is and whether people are just saying, 'Get on with it', which is what we heard from Alan Garcia today in the briefing.

Mr Garcia was then in the local government area.

Through interjection, the member for Murchison said, 'consulted to death', so certainly the lack of consultation has been raised. Mr Finch concluded:

Consulted to death and 10 years the discussions have been going on, so 'just get on with it.' That is where the Legislative Council can play its role to get some result from the fact that there was no consensus about these issues. They were up for conjecture and it all depends on where you stood and your own personal opinion on each of the issues.

These were the comments made back then and the bit that stands out is that the last bill was consulted to death and, unfortunately, I still could not get it up so there will be a certain feeling if the Leader does get the bill up today when it has not even been discussed.

We could go on and debate this for the next nine years and I understand there is no rush. However, as the member for Murchison alluded to in her contribution, it is part of our role as members of state parliament to structure local government.

**Clause 1 agreed to.**

**Clauses 2 and 3 agreed to.**

**Clause 4 -**

Part 15, Division 2A inserted

**Subclause 262A -**

Voting compulsory for certain persons entitled to vote

**Ms RATTRAY** - Thank goodness for the Committee stage. Madam Chair, I omitted to pass on my Flinders Council email. I am not sure why no-one reminded me. We were all overwhelmed by Dorset and that was the end of it.

I am particularly interested in how the education program is going to be rolled out given that it looks like it might well be around the \$100 000 mark and it is going to be paid for by DPAC. What might that entail? Obviously, there has been some discussion already. While I am waiting for that question, Madam Chair, I hope you will allow me to put on the public record the Flinders response, otherwise I am negligent in my representation of all my local government areas.

**Madam CHAIR** - We could not have you negligent. I am sure it probably relates in some way to this.

**Ms RATTRAY** - It does relate to certainly voting compulsory for certain persons entitled to vote. This is from Annie Revie, mayor of Flinders:

The only criticism I have of this one is that it was not discussed at all with the sector, but came out of the blue. However, I believe that, given that the State and Federal levels of government have compulsory voting, local government is devalued by not being so. It seems like: it's only local government is not important, you do not have to vote, take what comes.

If it gets through, I would also like there to be an election day with voting, pre-poll votes et cetera. The current postal voting system also seems to me to devalue LG. It will only affect Flinders a little, as we usually have around 81 per cent voting: I have no idea what it could mean if the remaining 19 per cent have to vote, but I believe it is important that people use their vote. Personal opinion only, because haven't discussed it with Council.

There are the six other fellow councillors on the island.

How is this compulsory voting for entitled persons going to be the educative approach that has been indicated and how is that going to be delivered?

**Madam CHAIR** - Especially Flinders Island.

**Mrs HISCUTT** - Thank you, Madam Chair. I am being advised we will be working with the TEC, there will be the employment of a professional communications officer and it will be rolled out in a most professional way. You know that during the last elections we had the TEC was very good at communicating that, so it will be done very professionally.

**Ms RATTRAY** - Is this a full-time position for the Electoral Commission or is this something that will take place while this particular education approach takes place? I doubt that \$100 000 is going to cover the cost of employing somebody and delivering the program.

**Mrs HISCUTT** - It is a communication firm that will be employed to do the job, so it is not an employee.

**Ms Ratray** - It is a Red Jelly show or equivalent to a Red Jelly show, a consultant?

**Mrs HISCUTT** - Consultant, yes.

**Subclause 262A agreed to.**

**Subclause 262B -**

Offence of failing to vote where voting compulsory

**Ms ARMITAGE** - If the Leader could confirm, I note that in 262B, offence of failing to vote where voting compulsory:

- (3) Proceedings for an offence against subsection (1) may be instituted only by the Tasmanian Electoral Commission or the Director of Public Prosecutions.

As the Leader is aware, I have spoken to the minister, Mr Street, and the minister has indicated in this first election under the new system, it is his expectation there will be a strong expectation of taking an educative approach in enforcement. Can the Leader please confirm that in this first election, irrespective of subclause (3), it will be education over punitive in order to get people in the habit of compulsory voting because it is such a short time frame.

**Mrs HISCUTT** - Yes.

**Mr GAFFNEY** - I do not know why it is being done but I will play devil's advocate here as I have an issue with the fact we are here doing legislation and it says 'instituted by the Tasmanian Electoral Commission or the Director of Public Prosecutions', and that is the legislation in front of us.

I do not think it is the part of this place to say there will be an expectation with this first one that if someone does the wrong thing it will be an educative approach. We have to be careful that we let those people do their jobs, listening to the debate, and listening to the Floor of the House but not being directed by the minister or by anybody else to say how they did that role. We must be careful that we are voting on the legislation in front of us, not the intent of what somebody might do who is a minister in one place, because the next time it comes up, we will say 'This is only the second time we have been to this, we should, you know'. They have a job to do and a role to let them make the decision, not have the hand of government over the top of that saying, by the way, this is how you should interpret the legislation. That is not correct.

**Subclause 262B agreed to.**

**Subclause 262C -**

Notice of failure to vote

**Ms RATTRAY** - I am following along with what has been provided and when it comes to the notice of failure to vote I heard the feedback from the Leader when she said the Electoral Commission expects that this will be a cost-neutral exercise once they start getting in all the fines. How does the Government see they are going to have all these people voting, but then you are going to be having a lot people that are not voting, and they are the ones going to be fined and they will pay for the additional cost of having compulsory voting? I cannot quite marry that up in my mind. If there is a better explanation, I would be really pleased to hear it.

**Mrs HISCUTT** - The Electoral Commissioner is speaking from experience as to the percentages of people and the fines that come in and that was his advice. Speaking through experience.

**Ms RATTRAY** - The strong indication that a lot more people are going to vote is not really there at this point in time, because there are going to be a lot of people who do not vote. Or is it going to be not so many people who do not vote, but they are not going to pay their fine quickly, so they will get double the penalty? That is what happens: they get the double penalty

if they do not pay within 21 days after the notice is sent. Is that correct? I am trying to work out how we are going to get this cost-neutral arrangement in place.

**Mrs HISCUTT** - Even with strong voter engagement there is a percentage who do not vote and do get fined, and do pay. The advice from the TEC is that will be the case. He expects it to be cost-neutral.

**Ms RATTRAY** - There is not the expectation that with the people who do not vote, there will be ones who will not attend to their fine quickly and get that double penalty? It is not what the Electoral Commissioner is thinking in that respect? I am mindful this should be part of the education process to alert the community this is going to be a cost-neutral exercise if a lot of people do not vote, because there will be a lot of fines.

**Mrs HISCUTT** - Yes, the TEC has advised that is what happens with not only council elections but all elections. There is a certain percentage of people who do not vote, get fined, and then get on-fined for not paying it. He is saying to us that it will be cost-neutral after a while, judging on his experience.

**Ms Rattray** - While the Leader is on her feet, that happens to federal and state government. They are a lot flusher with money than some of the smaller councils, particularly the ones I represent.

**Mrs HISCUTT** - Okay. Point taken.

**Ms ARMITAGE** - One further question following on from the member for McIntyre and the money coming. People do not pay, then it is increased, the fines increase. Does it then go to MPS? Do these go to MPS as well? It may sit there for a long time, and never be paid.

**Mrs HISCUTT** - Yes, that is the case.

**Subclause 262C agreed to.**

**Subclauses 262D and 262E agreed to.**

**Subclause 262F -**

Determination notice where reason for failure to vote not accepted

**Ms RATTRAY** - This is on the determination notice where reason for failure to vote has not been accepted, Leader. Can I have some indication of what those reasons that will fail to meet the accepted standard for not voting might be, because I will also need to educate the people I represent. The dog ate my postal vote probably will not wash. I am not sure.

**Mrs HISCUTT** - This section is straight out of other electoral bills. It is the same as all but a reason why could be, I just forgot, because the advertising campaign will be good but reasons like, I broke my leg and I was in hospital, that would probably be a good reason, although I would not like to pre-empt what the TEC would say.

**Ms Rattray** - This is about the non-accepted?



**Mrs HISCUTT** - That is right. The non-accepted reason would be something frivolous like I forgot, slept in, I was not able to get there, out of petrol perhaps. You could get a lift with a friend or that sort of thing, but the determination would be up to the TEC to make that ruling.

**Ms RATTRAY** - My next question, and you have said this is straight out of other voting arrangements and I understand, but this says 'particulars in writing from the elector as to any reasons why'. Does an email suffice for in writing or does it have to be through Australia Post? Given that we have postal voting through Australia Post but obviously emails are very commonplace in our communities now.

**Mrs HISCUTT** - In the form you fill in to say why, you can fill in that form and send it but there is nothing to say the Electoral Commissioner could not receive it any other way. You might care to put a read receipt on your email to make sure it has been received.

**Ms Rattray** - So an email is kosher?

**Mrs HISCUTT** - It could well be, but it would be up to the TEC to determine that, but as long as he has something.

**Subclause 262F agreed to.**

**Subclauses 262G and 262H agreed to.**

**Clause 4 agreed to.**

**Clause 5 agreed to.**

**Clause 6 agreed to.**

**Clause 7 agreed to.**

**Clauses 8 and 9 agreed to.**

**Title agreed to.**

**Bill reported without amendment.**

**Third reading made an order of the day for tomorrow.**

## **LAND TAX AMENDMENT (FOREIGN INVESTORS) BILL 2022 (No. 17)**

### **Second Reading**

[5.10 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.

Mr President, the Government welcomes foreign investment in Tasmania and recognises its importance to our economy. However, the Government also believes that it is essential that foreign investors pay their fair share when owning residential properties in Tasmania, and contribute to the essential services and infrastructure our growing state needs.

That is why, in the lead-up to the 2021 state election, the Government announced that it would introduce a Foreign Investor Land Tax Surcharge on foreign-owned residential properties in Tasmania.

This bill, in conjunction with the Land Tax Rating Amendment (Foreign Investors) Bill 2022, delivers on the Government's election commitment. In line with other states that have implemented similar surcharges, the Foreign Investor Land Tax Surcharge will be set at 2 per cent. The surcharge will commence on 1 July 2022 and will apply to residential land that is acquired by foreign persons, including foreign companies and trusts, on or after that date. It will also apply to residential land held by companies and trusts that become foreign-owned after 1 July 2022.

Importantly, the surcharge will not apply to those using land for primary production or as a principal place of residence. It will also not apply to commercial properties, including commercial properties that could be considered residential such as hotels, boarding houses, housing provided by or on behalf of certain educational institutions, residential care services and retirement villages.

In order to support the supply of affordable housing in Tasmania, foreign-owned Tasmania-based property developers that add significantly to housing stock in the state will be able to apply for a reassessment of any surcharge paid. This relief for foreign-owned Tasmania-based developers will help promote the timely development of residential housing in Tasmania.

This bill in conjunction with the Land Tax Rating Amendment (Foreign Investors) Bill gives effect to the Government's election commitment to introduce a Foreign Investor Land Tax Surcharge. The surcharge will complement the Foreign Investor Duty Surcharge introduced in 2018, and will ensure that foreign investors in Tasmania pay their fair share.

Mr President, I commend the bill to the House.

**Debate adjourned.**

## **SUSPENSION OF SITTING**

[5.13 p.m.]

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

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

This is for the purpose of a briefing.

**Motion agreed to.**

**Sitting suspended from 5.13 p.m. to 5.30 p.m.**

## LAND TAX AMENDMENT (FOREIGN INVESTORS) BILL 2022 (No. 17)

### Second Reading

**Resumed from above.**

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I had finished the second reading contribution. I commend the bill to the House.

[5.30 p.m.]

**Ms FORREST** (Murchison) - Mr President, I rise to make a short contribution on this bill. I commend the Government in some respects for seeking to increase our revenues a bit by making sure that everyone pays who should pay. It really is still tinkering around the edges and not addressing the fundamental problems with land tax as it is currently structured; but that is a matter for another day. I spoke a bit about that when we talked about the previous land tax bill here so I will not repeat all that.

It is important to make sure that where we have people investing in our Tasmanian property, and particularly where it relates to our land - and we are not making any more of it, it is very fixed, it is very stable and it is precious - that people do pay a duty, a land tax and other mechanisms when they are able to invest.

So many Tasmanians, as we know now, do not have the money to even provide their own home let alone buy an investment property or other commercial property that may attract a duty - which we have dealt with previously - and land tax. I do acknowledge that this was a gap. I know this was talked about when we did the foreign investment duty; and here we are, getting on and doing this.

I do note that some of the issues that were identified when we brought in the foreign investment duty were issues around the discretionary trust and the definition of discretionary trust and the like. We had to come back to this place and correct some of that as a result of issues that had been identified by those in the legal profession even at the time. Sometimes you have to wait until you see the problem in front of you and experience it to realise that it is a very real issue.

I also acknowledge the provision that enables foreign investors and developers who develop 50 or more residential dwellings in a 12-month period to apply for relief of this tax. I am wondering if there are any other conditions around that. If they provide 50 dwellings in that 12-month period, that is a not insignificant number, particularly in our current climate. As I said, I am not sure how many are going to get to that; but if you build a high-rise block of units or other dwellings, I assume it is each dwelling? It is not the one high-rise; it is the 50 dwellings that might be in that high-rise, and then you will then qualify? I seek some clarification about that.

Are there any requirements about where these residential properties are built? Is there an expectation that they will be built in areas of high need? I do not think we are going to put a high-rise in parts of the northern suburbs, or in Smithton, or on the west coast where there is dire need for housing. I know that every other member in this Chamber would have areas within their electorates where there is really serious need.

I am interested if there are any requirements other than you have to build 50 residential dwellings in a 12-month period. Good luck with that, if anyone can do that at the moment, in light of the current workforce shortages and challenges, and the price because of those challenges - and the availability of building materials.

I support the principle of the bill and I acknowledge that the Government has continued to act in this area to ensure that foreign investors are paying a duty, as they should in this state.

[5.34 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, this measure will apply to Tasmania-based foreign developers. By this, we mean foreign persons who operate a business that acquires land in Tasmania with the aim of developing it, have at least 80 per cent of its management and administration staff located in Tasmania, and operate in Tasmania for the majority of their business hours.

The developers will only be eligible for a refund of the surcharge if they are issued with at least 50 occupancy certificates for residential dwellings in a financial year and have complied with all the relevant requirements of the Foreign Investment Review Board. These can be built anywhere in Tasmania, on any piece of land.

**Bill read the second time.**

## **LAND TAX AMENDMENT (FOREIGN INVESTORS) BILL 2022 (No. 17)**

### **In Committee**

**Clauses 1 and 2 agreed to.**

**Clauses 3 and 4 agreed to.**

**Clauses 5, 6 and 7 agreed to.**

**Madam CHAIR** - I will call clause 8 as a whole unless there is an indication that there are a number of questions.

**Clause 8 agreed to.**

**Clause 9 agreed to.**

**Title agreed to.**

**Bill reported without amendment.**

**Third reading made an order of the day for tomorrow.**

**LAND TAX RATING AMENDMENT (FOREIGN INVESTORS)  
BILL 2022 (No. 16)**

**Second Reading**

[5.39 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.

Mr President, this bill, in conjunction with the Land Tax Amendment (Foreign Investors) Bill 2022, delivers on the Government's election commitment to introduce a Foreign Investor Land Tax Surcharge by setting the surcharge at a rate of 2 per cent. That is all that this bill does.

I commend the bill to the House.

**Bill read the second time.**

**LAND TAX RATING AMENDMENT (FOREIGN INVESTORS)  
BILL 2022 (No. 16)**

**In Committee**

**Clauses 1 to 3 agreed to.**

**Clause 4 -**

Section 6A inserted

**Ms RATTRAY** - I have probably had my mind in four other places during that briefing, but I am interested in how the 2 per cent of assessed land value was arrived at.

**Mrs HISCUTT** - The rate of 2 per cent is consistent with the equivalent surcharges in New South Wales, Victoria and Queensland. That is where we got that from. The application of the surcharge to only residential land other than land classified as a principal place of residence is also consistent with that of other jurisdictions.

**Ms RATTRAY** - Were there any thoughts of increasing it? We do not have as much land as New South Wales or other places. We are a smaller state and smaller jurisdiction, so do we have to be consistent?

**Mrs HISCUTT** - Musing on that point, we probably do not have to be consistent, but we have decided to be consistent.

**Clause 4 agreed to.**

**Clause 5 agreed to.**

**Title agreed to.**

**Bill reported without request and without amendment.**

**Third reading made an order of the day for tomorrow.**

## **DUTIES AMENDMENT BILL 2022 (No. 18)**

### **Second Reading**

[5.43 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.

The Duties Amendment Bill 2022 amends the Duties Act 2001 to clarify the scope and operation of the Foreign Investor Duty Surcharge and to recognise and ensure that non-interest-based property transactions, such as those undertaken by members of the Islamic community, are not subject to double duty.

Mr President, in 2018 this Government introduced the Foreign Investor Duty Surcharge on foreign acquisitions of residential and primary production land in Tasmania. To ensure that the application of the surcharge is clear, and there is administrative effectiveness and certainty for taxpayers, several amendments to the surcharge are proposed in this bill. Feedback from industry stakeholders has suggested that there is uncertainty in the application of the surcharge to self-managed superannuation funds and the treatment of property purchases by testamentary estates.

To remove this uncertainty, the bill amends the Duties Act 2001 to clarify that for the purposes of the surcharge, members of self-managed superannuation funds have a beneficial interest in the capital of the fund, and that beneficiaries of testamentary estates have a beneficial interest in the capital of the trust. This will make it simpler for those holding land in a self-managed super fund or a testamentary trust to demonstrate their foreign status for the purposes of the surcharge.

The intent of the surcharge was that only genuine 'residential properties' are captured. Feedback from industry stakeholders has suggested that the current surcharge provisions could create ambiguity for certain commercial properties.

To rectify this, the bill clarifies that commercial residential properties, that could be considered residential, such as hotels, boarding houses, housing provided by or on behalf of certain educational institutions, residential care services, and retirement villages, are not subject to the surcharge.

The self-managed superannuation fund and testamentary trust amendments, and the amendments clarifying the application of the surcharge to commercial residential properties, will apply retrospectively from 1 July 2018, the date on which the surcharge commenced.

This bill introduces surcharge relief for foreign-owned Tasmania-based developers that make a significant contribution to the state's housing stock. This relief will ensure that the surcharge does not discourage foreign investment in residential property construction.

The Duties Act 2001 does not cater for non-interest-based purchases of property, such as those undertaken in Islamic financial arrangements, for the purposes of conveyance duty. Non-interest-based purchases of property typically result in two transfers of the property, one when the property is initially purchased and another at the end of the relationship between the purchaser and the lender. This often means two dutiable transactions are made before the individual eventually takes full ownership of the property.

This bill recognises these arrangements and will impose duty only once.

Mr President, I commend the bill to the Council.

[5.47 p.m.]

**Ms FORREST** (Murchison) - Mr President, I appreciate the effort that the Law Society and other legal bodies go to, to ensure that these laws are clear because they are the ones that are applying it. They are the ones that sometimes come up against circumstances where clarity is needed as to how a tax, duty, surcharge or whatever is to apply.

Probably all of us here are concerned by retrospective application of matters such as this. The Leader's clarification in her response that there are no bodies or foreign investors who have paid a duty or a payment to the State Revenue Office that will have to be refunded, and that we will not be going out there chasing some who thought they were not required to pay this and will subsequently be issued with a substantial bill - that is one point I wanted to raise.

This is probably my ignorance. I ask the Leader to describe more fully in her reply the non-interest-based purchases of property that are undertaken in Islamic finance arrangements. I have not heard about the specific arrangements this operates under. It is clear from the Leader's second reading that it becomes double duty paid and that is not reasonable. Obviously, that was not the intention. The Leader did say that non-interest-based purchases of a property typically result in two transfers of the property, one where the property is initially purchased and at the other end, at the end of the relationship between the purchaser and the lender. I want the Leader to explain a bit more of that process and why that applies in a unique circumstance like this, and which is the duty we are actually getting rid of - the one at the beginning or the one at the end. It is important to understand the process.

I note that this bill has come back as the result of feedback from industry stakeholders and people who are working in this space and having to apply this, or know whether they have a duty or a tax or some payment that will be imposed by the State Revenue Office. Most people when they are buying a property or anything like that do well to factor in the amount of stamp duty they have to pay because if you have to borrow money, you need to make sure you can cover that. I still think the stamp duty applies to the wrong end of the transaction but that is another matter.

The Leader said feedback from industry stakeholders suggests there is uncertainty in the application of the surcharge to self-managed superannuation funds and the treatment of property purchases by testamentary estates. These are the people who are specialists in the

field. They work in these areas and they have sought clarification to have any doubts removed over whether it applies or not, in what circumstances.

As the Leader also said, feedback from industry stakeholders has suggested that the current surcharge provisions could create ambiguity for certain commercial properties, particularly those that have commercial residential arrangements such as hotels, boarding houses, housing provided by or on behalf of a certain educational institutions, like boarding places at schools, residential care facilities and retirement villages that are not subject to this surcharge.

It is important that the legislation is clear and I certainly do not feel well equipped when we get this sort of bill in the first instance to be sure we have ticked off on everything. Even when we brought in the foreign investor surcharge first up, I relied very heavily on members of the legal profession to help me work my way through that. They continue to engage and here we are with a bill seeking to clarify. It is those couple of questions involving explanation around non-interest-based purchases of property undertaken in Islamic finance arrangements, and the fact that there are no people going to be caught up with an unexpected bill or potentially having to be paid back a heap of money.

[5.52 p.m.]

**Mr VALENTINE** (Hobart) - I, too, thank the Law Society for their attention to these things. Things can get complex. I want to be reassured that this is about residential properties. There is an aspect in here that is reassessment of duty if premises cease to be residential premises. I want to know how whether it is residential or not is gauged. It does not seem that there is any interaction with local government in here. I want that explained in the response. I might ask a question during the Committee stage.

**Ms RATTRAY** (McIntyre) - A couple of questions to the Leader. I know that the question has already been asked about the retrospectivity of this. If it is not going to catch anybody, if there are no outstanding matters, why do we need to use the retrospectivity aspect back to 2018? Why is it not from today?

The second question I have, and the member for Murchison again read out about this to rectify this, the bill clarifies commercial residential properties that could be considered residential. Good question by the member for Hobart. Who assesses when they change? How do we know? But what I am interested in, it says, 'housing provided by or on behalf of certain educational institutions'. So some clarification around 'certain'. How do you fit into 'certain' education institutions? It needs to be clear what education institutions this is referring to. That is something I would be seeking. I am certainly not opposed to the bill, as has already been indicated. Clarification and the work of the Law Society is very important. Their area of expertise is working with these things every day. There are a couple of questions I have before I provide my support.

[5.55 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - On the first question as I seek a bit of advice coming forward here, if there is anything we are aware of that is coming up, we have advice from the State Revenue Office there is nothing they are aware of and I shall seek some advice on the other information.



There is a bit more detail on the non-interest-based Islamic financial arrangements, which I thought was very interesting too. No duty will be chargeable in respect to the transaction relating to a dutiable property that is a second transaction within the meaning of subsections (2) and (3) of section 57B. I have a bit more to come on that in a second which is interesting.

Have taxpayers been charged conveyance duty twice under the current arrangements? The Department of Treasury and Finance is not aware of any incidences of double duty being charged to the taxpayers for these types of transaction. The intention of these amendments is to provide these arrangements as a viable option when compared with other interest-based loans.

This letter, I will read a paragraph, is from the Australian Bank of Muslim Australians. In brief, there are two main forms of property financing for non-interest-based Islamic transactions. The first one is Murabaha, and this is where the bank buys a house for a customer from the selling party and then instantly sells it to the customer at a higher price and the customer pays this back over 30 years. The other example is number two, diminishing Musharakah, and this is where the bank and the customer start by owning a share proportion of the property based on the deposit amount, for example, it could be 80 per cent of the bank and 20 per cent of the customer and the customer buys the outstanding shares over 30 years, much like someone paying off their loan. So there are two transactions involved there.

**Ms Forrest** - Do we know which one we are removing the duty from, the first one or the second one?

**Mrs HISCUTT** - The second one. The first bit of advice I have was no duty will be charged in respect to a transaction relating to a dutiable property that is a second transaction within the meaning of subsection (2) and (3) of section 57B.

Why retrospectivity if no taxpayers have been impacted? This caters for the potential that a taxpayer may raise a matter with the commissioner that relates to an instance between 1 July 2018 and 2 July 2022. It is a catch-all.

What are certain educational institutions? The bill amends the Duties Act 2001 to clarify that the surcharge does not apply to certain commercial or residential properties. That was your question, 'certain'. This means such properties that are inherently commercial in use, but have residential qualities, such as maybe residential accommodation provided by schools or TasTAFE and universities. From personal experience, when I was doing TAFE all those years ago, they had one of them at the TAFE in Burnie.

The last question was for the member for Hobart. An example would be if you had a hotel that you have had up for sale, or want to put up for sale, and it is not being used as a hotel at the stage that you sell it, where it was commercial but now it is not. When you onsell it, and it becomes commercial again, there could be a changeover then. It is the SRO that makes that determination.

**Bill read the second time.**

## **DUTIES AMENDMENT BILL 2022 (No. 18)**

### **In Committee**

[6.03 p.m.]

**Clause 1 agreed to.**

**Clause 2 -**

**Commencement**

**Ms RATTRAY** - Leader, given your response to my question as to why this is being retrospectively commenced on 1 July 2018, when you have indicated that you are not aware of anything, is it fair to say that there could well be some claims where the Government is liable for repaying money using this retrospectivity? Is that fair to say?

**Mrs HISCUTT** - The Law Society wanted some clarification there. The SRO, as we know, is not aware of anything, but it is best we put it in there because that was the original intent of the bill, and that was when the original bill took effect. It was tidying up the way it should have been to start with.

**Ms RATTRAY** - Then my question is, is the SRO likely to go back and look for anything or are they going to head forward without having that here as a backstop?

**Mrs HISCUTT** - The SRO has advised us there is nothing they are aware of, so they have obviously had a bit of a look.

**Clause 2 agreed to.**

**Clauses 3 and 4 agreed to.**

**Clauses 5 and 6 agreed to.**

**Clauses 7 and 8 agreed to.**

**Clauses 9 and 10 agreed to.**

**Clauses 11 and 12 agreed to.**

**Title agreed to.**

**Bill reported without amendment.**

**Third reading be made an order of the day for tomorrow.**

## **ADJOURNMENT**

[6.07 p.m.]

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

That at its rising the Council does adjourn until 11 a.m. on Thursday  
2 June 2022.

**Motion agreed to.**

**Mrs HISCUTT** - Mr President, I remind members of our briefing tomorrow morning at 10 a.m. That will be on the workplace protection bill. There are some people coming in who are self-referral.

Mr President, I move -

That the Council do now adjourn.

**Motion agreed to.**

**The Council adjourned at 6.06 p.m.**