PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 17 September 2020

REVISED EDITION

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

JUSTICE LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2019 (No. 39)

POLICE LEGISLATION MISCELLANEOUS AMENDMENTS BILL 2019 (No. 44)

Third Reading

Bills read the third time.

LAND USE PLANNING AND APPROVALS AMENDMENT (MAJOR PROJECTS) BILL 2020 (No. 26)

Second Reading

Resumed from 16 September 2020 (page 71).

[11.05 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I concluded my summing up yesterday; hopefully, we will go to the Committee stage at this point.

I am content to work slowly and diligently through this legislation to address the myriad amendments we have before us.

Bill read the second time.

LAND USE PLANNING AND APPROVALS AMENDMENT (MAJOR PROJECTS) BILL 2020 (No. 26)

In Committee

[11.08 a.m.]

Madam CHAIR - Honourable members, I will now read a statement about how we intend to proceed with this bill -

> Given the number of proposed amendments that have been circulated, it is proposed that at clause 12, the Deputy Clerk will call each subclause, and members will have the usual three speaks on each of the subclauses.

When a member proposes an amendment or a set of amendments, the member will propose their amendments in the usual fashion by reading the words of the proposed amendment.

After an amendment is read, the member will then have three speaks on the question that the amendment be agreed to. In some instances, a group of proposed amendments may be read at the same time as one amendment, where the terms of the amendment are linked through a subclause. For example, an amendment may be proposed to delete a set of words and replace them with another set of words, and the change may be proposed a number of times through the subclause.

All members in the Chamber will also have three speaks to debate each particular amendment or set of amendments, as well as three speaks on the subclause as it stands and, indeed, three speaks on a question that the subclause as amended stand part of the bill, should any amendment be successful.

On consideration of all subclauses in clause 12, and depending on the success as to the amendments to the subclauses, the question will be put that the clause as amended stand part of the bill.

Alternatively, if there are no amendments, the question will be put that the clause as read stand part of the bill.

Given this is a Government bill, the Leader will have unlimited right to reply to any question proposed, as is usual. I have no power to constrain her. At the end of the clauses any new clause or new parts will be proposed. We will move slowly through clause 12 to allow members to propose amendments and address them and any comments in a considered and fair manner. As I also have proposed amendments to this bill, the member for McIntyre will assume the Chair on and off as well.

I hope it is helpful to people to understand how we are going to work through, particularly clause 12, where all of the detail is.

Mrs HISCUTT - Madam Chair, you might have to help us along the way.

Madam CHAIR - If anyone has any queries, feel free to seek a point of clarification on the process, particularly for our new members who might find this a little bit daunting.

Ms LOVELL - A point of clarification: my first amendment is proposing a new section 60C, but I stand on proposed new section 60C - is that correct? I am getting a nod, thank you.

Madam CHAIR - Yes, if it is in proposed new section 60C, it is not a brand new clause.

Clauses 1 to 11 agreed to.

Clause 12 -
Part 4, Division 2A substituted

Proposed new section 60B -
Interpretation: Division 2A

Ms WEBB - I request that this proposed new section be postponed until later in the debate. I have an amendment proposed to it, but that is consequential to another amendment being passed as a later stage in the bill.

Proposed new section 60B postponed.

Proposed new section 60C -
Proposal that project be declared major project

Ms LOVELL - Madam Chair, I move that the subclause 60C be amended by -

First amendment

Proposed new section 60C, after subsection (3),

Insert the following subsections:

(3A) A proposal may not, under this section, be made to the Minister, or by the Minister, in relation to a major project, if –

(a) the proponent of the project, or a person acting on behalf of, or at the request or direction of, the proponent; or

(b) a member of the governing body of the proponent of the project, or a person acting on behalf of, or at the request or direction of, a person who is a member of the governing body of the proponent -

has, within the 3-year period immediately before the proposal is made under this section, given a benefit to -

(c) a person who is a member of the Parliament;

(d) person who is, or is intending to be, a candidate for election to the Parliament;

(e) a political party that is registered in the State; or

(f) a person, where the benefit is given to the person for the purpose of enabling the person to -

(i) give, directly or indirectly, a benefit to a person referred to in paragraph (c), (d) or (e); or

(ii) reimburse the person for giving a benefit to a person referred to in paragraph (c), (d) or (e).

(3B) A proposal may not be made to the Minister under subsection (1), or by the Minister under subsection (2), unless it is accompanied by a statutory declaration, from each of the relevant persons, declaring that he or she does not believe, and has no reason to believe, that, within the 3-year period immediately before the proposal is made under this section, a benefit has been given to -

(a) a person who is a member of the Parliament; or

(b) a person who is, or is intending to be, a candidate for election to the Parliament; or

(c) a political party that is registered in the State; or

(d) a person, where the benefit is given to the person for the purpose of enabling the person to -

(i) give, directly or indirectly, a benefit to a person referred to in paragraph (a), (b) or (c); or

(ii) reimburse the person for giving a benefit to a person referred to in paragraph (a), (b) or (c) -

by -

(e) the proponent of the project, or a person acting on behalf of, or at the request or direction of, the proponent; or

(f) a member of the governing body of the proponent of the project, or a person acting on behalf of, or at the request or direction of, a person who is a member of the governing body of the proponent.

(3C) If the Minister intends to make a proposal in relation to a major project -

(a) the Minister may give to a proponent in relation to the project a notice requiring the proponent to ensure there is provided to the Minister, within the period specified in the notice -

(i) a statutory declaration in accordance with subsection (3B); or

(ii) a statutory declaration, by the relevant persons, stating that the proposal cannot be made because of the application of subsection (3A) to the project; and

(b) if the proponent in relation to the project fails to comply with a notice under subsection (a), within the period specified in the notice, section 60E(4) applies in relation to

the project as if the failure to comply were a failure to comply with section 60E(3).

(3D) In this section, a reference to a benefit given to a person or a political party is a reference to -

(a) a donation of an amount of money, to the person or political party, for the purposes of promoting the election of the person or a member of a political party; or

(b) a gift to the person or political party, including a disposition of property made (other than under a will), without consideration -

(i) in money or money's worth; and

(ii) that approximates the reasonable value of the object given as a gift; or

(c) the provision to the person, or to a person who is a member of the political party, of services (other than services that might ordinarily be given on a voluntary basis to a political party, or a candidate for parliament, to promote the political advancement of the party or person) other than for consideration -

(i) in money or money's worth; and

(ii) that approximates the reasonable value of the object given as a gift -

but does not include a gift that is made to a person in a private capacity for the person's personal use and that has not been used, or is not intended by the person to be used, wholly or substantially, for a purpose related to an election or the person's duties as a member of Parliament.

(3E) In this section, a reference to the relevant persons in relation to a proponent is a reference to -

(a) the person who is the chief executive officer of the proponent; and

(b) the person who is the chair of the governing body of the proponent.

Members, I move this amendment primarily in response to community concern which we have all heard on a number of occasions in relation to a desire, and not an unreasonable desire, of the community not to be kept in the dark about relationships between proponents of major projects and members of parliament.

The Government has stated a number of times that this process is about taking politics out of the planning process and that the major projects bill will allow major projects to be assessed on the basis of merit, but it is critical we have transparency in planning complex projects. I am attempting with this amendment to address significant community concern.

I would prefer to see provisions around donation disclosure and these types of amendments contained in other pieces of legislation, but it has been very clear that is not going to happen in Tasmania any time soon. In the interest of being up-front and honest about what we are trying to achieve with this bill - that is, taking the politics out of planning - I feel this is an appropriate amendment to include at this stage.

If we have donation disclosure reform down the track, we can always come back and amend this bill if it is covered elsewhere.

We heard in briefings that the process of assessing a major project will still go to the Development Assessment Panel - DAP - and that panel is an independent body. I am not disputing that. There is still an action required to be taken by the minister at the very start of this process, so it is important that we ensure that Tasmanians can be confident there is no undue influence, that projects are put forward for assessment based on their merits and then assessed through that independent process.

I urge members to support the amendment.

Mrs HISCUTT - Madam Chair, before we start, I saw my Justice adviser being ushered from the Chamber. Is it possible for him to sit in the Leader's Reserve?

Madam CHAIR - Sure.

Mrs HISCUTT - Honourable members, as you would already know, the Liberal Party is against this motion, as we discussed in the other place and the briefings yesterday. We all know that the major projects bill is not an appropriate forum for the consideration of electoral reform, which is what this amendment is.

We know why this amendment is being proposed, and it has nothing to do with this bill. The issue of political donations is completely out of the scope of the bill, and for the Land Use Planning and Approvals Act 1993; it belongs in the Electoral Act. Planning assessments are all about the appropriateness and merits of a proposed use and development of a specific location. At its core, major projects is a planning assessment bill, not an electoral assessment bill. Under the major projects process, neither the identity of the proponent nor their political affiliation will have any bearing on the assessment of the merits of a proposal by the independent commission, appointed panel or the various statutory regulators.

It will have no political persuasion whatsoever. It is offensive to the Tasmanian Planning Commission and those statutory regulators to suggest otherwise. Any reform of political donation rules should focus on ensuring that recipients of a donation are accountable and transparent, and not on the political alignment of the donor. This amendment is not about transparency. This is about a requirement to declare a donation. This is about exclusion, about preventing someone doing something on the basis of their political alignment.

The amendments will introduce an additional and discriminatory hurdle to the planning system, with potential flow-on to all planning permit applications. The intention of limiting the opportunity for corrupt decision-making is not made where the determination of the permit application is made by a body that is not the recipient of the donation. In this case, the determination of the application is made by the independent planning commissioner, the person who makes the decision. The only role for the minister is to declare a project that starts that independent assessment process. The same limitations are not applied to other application processes, and, again, would simply deter proponents from using this major projects process and drive them to less efficient and more open processes.

Has the mover of the proposed amendment considered whether it is consistent with the state's anti-discrimination laws? The Anti-Discrimination Act allows, under section 24, discrimination against persons if it is reasonably necessary to comply with the law. Section 24, Actions required by law, says -

> A person may discriminate against another person if it is reasonably necessary to comply with -
>
> (a) any law of this State or the Commonwealth; or
>
> (b) any order of a commission, court or tribunal.

The question must be whether it is reasonably necessary to limit someone's access to the planning assessment process when the capacity to influence that decision through a political donation is not available.

While New South Wales and Queensland introduced amendments to their electoral laws preventing political donations from property developers, this is very different to restricting a person who makes a political donation from being a property dealer. It is the other way around. Surely, provided that the assessment process is at arm's length of the government, a developer should expect a hearing without fear or favour.

There are two ways to stop potential for corruption through political donations. One is to restrict the donation from large property developers where the decision on their proposals is political in nature. The other is to have decisions that are not politically influenced - decisions by independent expert panels, and this is what we are talking about today. This is exactly why other states have moved away from ministerial decisions on the permits and given the assessment to expert development assessment panels.

The amendment has not been consulted on at all. While it is proper for members to review and suggest amendments to matters raised in submissions or through briefings to improve legislation, it is quite another thing to raise a completely new component that nobody has been consulted on - an amendment that will fundamentally change the ability of people to access the proposed assessment process, and it is only to access the proposed assessment process.

The scope of the amendment is very large. Not only does it seek disclosure of any donation - no matter how small - it then bans that person from accessing the independent planning assessment.

It does not set a limit on the donation or to whom it is made. Even donations to candidates who are not successful are included. This would capture a $10 donation to an anti-pokies party, $100-a-year supporter contribution to the Greens or a $2.00 sausage at the Shooters, Fishers and Farmers Party sausage sizzle potentially, along with anyone who puts a bumper sticker on their car. It is certainly discriminatory and may or may not be unconstitutional.

The purpose of the major projects process is to provide for the assessment of large complex projects that require significant investment and capability. I doubt that there would not be a single private sector proponent in this state with the capability and resources to undertake a major project who would not have made some form of donation to one or more political parties over the last three years.

The effect of the proposed amendment is to discriminate against the private sector and could mean only the government could be a proponent of a major project. The amendment may also deliver perverse outcomes, such as reduction in transparency, the use of front companies or proxies, and an increase to foreign investments and ownership.

This proposed amendment is inappropriate and out of scope. It has been proposed for reasons totally outside the focus of today's debate.

Further, the introduction of limitations here in the major projects process where the decision is actually at arm's length from politicians will inevitably mean there would need to be future consideration of the flow-on to local council development applications, where the decisions are made by directly elected people and not an independent commissioner.

It seems there is far more potential to influence decisions at the local government level by donations than there is under this major projects process, simply because the decision-makers are elected local councillors. That is where it may sit.

If this flow-on to ordinary DAs occurred, it would severely limit the ability for anyone who in the last three years offered any support to a political party or candidate to seek a permit from a house or an extension to a house or a shop. The consequences of this would be either that ordinary people will stop making small donations to political candidates or potentially hosting election signs on their land or the number of development applications will be reduced while people wait out a three-year quarantine period before they can lodge a DA.

Of course, the amendment is not supported.

I ask members to think seriously about this. This amendment does not belong in the major projects bill. It belongs in the Electoral Act and that is an argument for another day. This is a major projects bill. It talks about developments and major projects, and this amendment will not even affect the people who are making the decisions, who have nothing to do with politicians. They are the ones making the decisions. This amendment is irrelevant and should not be inserted into this bill.

Ms RATTRAY - Madam Chair, I agree this matter should be looked at, but I do not agree it should be here. I know the member for Murchison yesterday asked about the report of the review that is with the Government. I am not sure she received a response from that question, so I will ask it again. What is the plan for that review? It is perhaps somewhat an

aside, but that is why I am not supporting the amendment, although I appreciate what the member is looking to achieve here. I just do not feel that it sits within this scope of the bill.

I am interested in that review and when that legislation is going to come to the parliament. I believe that there is an appetite for it, particularly in the community. I am looking for some feedback from the Leader.

Mrs HISCUTT - I think the answer is the same that the member for Murchison received on that review. The Premier does have it but he has not had time to look at it. As you can imagine, the last few months have been extremely busy with COVID-19-related -

Madam CHAIR - Apart from the fact that they received it in November.

Mrs HISCUTT - Whatever that review is, and whatever is around that, it still has nothing to do with the major projects bill. This is not the place for this amendment.

Mr VALENTINE - I can understand what the Leader may well be getting to on this, but there is no question that it has a bearing on this bill. Political donations, or however you might like to term them, certainly have an impact. I think that it does need some form of protection. It has in Queensland since February; in New South Wales it has been there since 2015 when the High Court ruled such a ban on developer donations was constitutionally valid. That is something we need to keep in mind. It is valid to do this. I am inclined to support it.

Mrs HISCUTT - I want to know what bearing you reckon political donations will have on the outcome of the independent tribunal that is going to assess it? The minister of the day may give it to the commission, but the minister is still not making the decisions.

Also, just to clarify, while New South Wales and then Queensland introduced amendments to their electoral laws preventing political donations from property developers, this is very different to restricting a person who makes a political donation from being a property developer. It is the other way around.

A political donation may get - it will not influence - but if it happens to get it to the independent tribunal or commission that is going to assess it, it makes no difference. They are independent. They are not the ones getting the political donation. The minister may say, 'I can get it to the start point for you', but the minister does not make the decision, the independent tribunal makes the decision.

Mr VALENTINE - It is the fundamental fact that the minister is the one who actually puts it up for consideration in the first instance. That needs to be free of that sort of influence, it really does. At the end of the day it is the minister who ends up declaring it. I am really concerned about that. I know the amount is an issue; I can appreciate the amount is an issue. The principle is important.

Mrs Hiscutt - It is the minister who declares the start of the process. The independent tribunal assesses it, then makes the decision.

Mr VALENTINE - Then he declares it.

Mrs Hiscutt - No. Which section would you like to comment on with that?

Mr VALENTINE - It is under the declaration of major projects, sorry, the decision.

Mrs Hiscutt - Yes, that is the start point.

Mr VALENTINE - You give me the clause, the end point.

Mrs Hiscutt - We will seek that. The determination is made by the panel, the minister has no say on that.

Mr VALENTINE - Can you give me the end point?

Mrs Hiscutt - We will see if we can find that part, Madam Deputy Chair. It is proposed new section 60ZZM, Grant of major project permit, which starts - 'The Panel must', 'the Panel may', 'the Panel does', 'the Panel'. The panel is the independent decision-maker on this, not the minister.

Ms FORREST - Madam Deputy Chair, this is such an important issue, I thought I should come out of the Chair to contribute on this proposal which is actually inserting a new and a very important consideration into this bill.

I have not had time to look at what New South Wales and Queensland actually have that will be comparable to this. I know they certainly have better political donation legislation, and ours is at the bottom of the pile, and it is a priority. I know it is not part of this debate, but it is an important point, and I will make it again and again and again.

In response to your comment, Madam Deputy Chair, I spoke to the Attorney-General last night and she said, 'No, it's with the Premier'. The Premier knows when I am coming. On this particular aspect, maybe members who are aware of the actual content of the New South Wales and Queensland provisions could make it clear how they work, because my concern, with the way this is actually structured, is that it means a proponent cannot participate, and that is a concern. I think we should require them to declare. They absolutely should declare. We should know who is putting money into whose pockets to try to seek influence in this state, and we do not.

We have the most appalling political donation legislation in this state, and we have no idea until well after the event - and often we do not know at all. We saw examples of that last election - there is no public trust because of that, so I can understand absolutely the desire for members of this place to have this inserted.

Is it the right place? Possibly not, but if we had good legislation in another area - which the previous premier did commit to - we might not be having to have this discussion to this extent.

I need to have some better understanding of whether in New South Wales or Victoria these proponents are prohibited from participating. To me, it is most important that, particularly in a small state like Tasmania, we do not see Tasmanians being unable to participate in this process. It is independent - experts make the assessment and the determination, once it is agreed to be in that process, and Tasmanians could be stopped from participating.

We know that people from outside Tasmania make donations to political parties too, but I want to know who these people are, and then the public will have some say through that decision-making process about the assessment criteria and all those sorts of things, through the lens of knowing whether this proponent is a big donor.

Again, I am no expert in the field. I am not even entitled to know who makes donations to whom, but I know for a fact that some major donors donate to both major parties - Labor and Liberal - so that would rule them out entirely. Is that fair? I think they should declare. It should be a declaration we want here, not an exclusion, and that is my concern with this amendment.

I know the Labor Party has a draft bill out for consultation with regard to electoral reform. I hope it progresses that fairly swiftly and gets its back into this place, because if they do not, I will be forced to do something myself.

Do not worry - I will, but if it is actually on the way, let us get on with it. There is such a lack of public confidence in this aspect and most of the emails coming into my email inbox, and I am sure it is the same for other members, express concern about money buying influence. I am sick of it and the people I talk to in my community are sick of it, and it is time it changed.

I commend the Labor Party for really pursuing this because it is so important.

My points about exclusion demonstrate it is a concern for me. If it were just a declaration, it might be slightly different, but exclusion is the real problem - look at some of the major construction companies and things like that which are Tasmania-based firms. I do not know whether they make political donations. Who would? None of us - and that is part of the problem. However, let us not say, 'No, we have to rely on people from the mainland or overseas who have not made a donation to come and do the development in the state.'. That is not what we want to see.

Ms Webb - To clarify for the member for Murchison: we will put forward potentially an amendment to the amendment to that effect.

Ms FORREST - I have not had time to consider that. I do not understand what happens in Victoria and Queensland. This came to us at short notice. It was moved downstairs, but we have been really busy in this place.

Ms Webb - I agree.

Ms FORREST - It does not give us time to fully understand the implications of this. I know the Leader raised the Anti-Discrimination Act - well, I do not know: sometimes the Government raises red herrings in these sorts of debates to try to put us off. I am not suggesting that is the case, but the Government often throws in these little things and I think, 'Oh, please.'.

Once I had a chance to read this last night, I thought a declaration is in their interest and I have said this repeatedly when people have asked me about it. We as the people then make our minds up, but we should not be excluding people, particularly those who for whatever reason decide to feel the need to line the pockets of both parties.

Mrs HISCUTT - In response, it is the other way around in the other states. They stopped property developers from donating money, not property developers from participating, so your turn on that is right.

I remind members that it is the commission that makes the decision, so the political donations in this bill belongs in the Electoral Act. I would like to see that looked at one day when the Premier has had time to have a look at the review, but it does not belong in this legislation. I do not want it here. The decisions belong with the planning commission and that is where it sits. Why would you put it in here?

Mr VALENTINE - I accept the advice with regard to who it is that declares it. Thank you for that, but the minister has been sprinkled throughout this in various ways. For instance, in proposed new section 60ZZF(1) -

> A participating regulator in relation to a major project must give to the Panel a notice (a **final advice**) in relation to the major project before the end of the 42-day period, or a longer period allowed by the Minister…

He can extend things. He can do things to help to facilitate. I appreciate he may not make the end decision. I can appreciate the panel may do that. There are some who would say having the minister involved in selecting the skills required and all those sorts of things are a slight avenue for the minister to have influence. I asked a question of somebody with regard to the situation in New South Wales and Queensland. The information that came back to me, and I have not had a chance to verify any of this, is that New South Wales has a limit of donations by an individual of $6600 to a party and $3000 to a candidate. Queensland has an overall donation limit of $10 000 from any individual or organisation over the four-year term of the parliament.

Queensland also caps donations to each party, whether from an individual or corporation, at $4000. Queensland also caps donations to candidates, whether from an individual or corporation, at $6000. In Victoria there is a limit of $4000 over four years for any donor. That is their donation declaration law as opposed to in a bill like this. I can hear the argument about - is it the right place? - et cetera. One might say when you do not have donation disclosure laws elsewhere, how else are you going do it? It is a bit piecemeal. I appreciate that but in their absence, something has to go in their place.

Mrs HISCUTT - Yes, as you said, they are in the donation laws. Here they would be in the Electoral Act. I do not see them in any major projects bill anywhere. That is totally irrelevant to that. You mentioned about the minister being splattered through the bill.

Mr Valentine - Not splattered. Sprinkled, I think I said.

Mrs HISCUTT - The minister is in there because they are extending the time to the regulators and the commission. It is not to give any benefit to any property developer. It is to help the process. The regulators or the commission would ask for an extension of time and the minister would grant them that, not the property developer. It has nothing to do with the property developer. The property developer is over there. What you are talking about is the minister helping the regulators and the commission do their job.

Mr Valentine - He can remove the two-year limit at the end as to when it comes back or he can influence it.

Mrs HISCUTT - That is after the decision is made.

Mr Valentine - But it facilitates it again.

Mrs HISCUTT - It is after the decision is made and then it can start all over again if you like, so it is not political. The decisions are independent. This is not the place for this amendment.

Ms LOVELL - Madam Chair, on my second call I want to address some of the questions and comments raised throughout the debate so that members can consider that while they consider their position on this.

The answer to the question around the threshold, the donations that this would capture, and the Leader has put forward an argument that it would capture a $2 sausage or a bumper sticker. That is not correct. What this would do is refer back to the current donation disclosure threshold in the Electoral Act which is currently $14 300.

The Leader also argues that this is not the appropriate forum, and other members have raised that as well. I could agree with you on that. Maybe this is not the appropriate forum for this, but that is a hollow argument when we have no other forum currently before us, no moves towards any kind of donation disclosure or Electoral Act reform. While other states have nothing along these lines in their major projects laws, they have much stricter donation disclosure laws. In fact, as members have referred to, states like New South Wales prohibit donations to political parties or candidates or members of parliament by property developers.

It is just doing it the other way around. You can either prohibit a property developer from making a donation or you can prohibit somebody who has made a donation from becoming a property developer. You choose one or the other. They both end up with the same result.

The argument that this will flow on to ordinary development applications is not being considered. That is not what we are looking at here and that is certainly not where community concern lies. This is about addressing community expectation and community concern; the Leader herself has said that the minister may make a decision to refer a project based on a donation. She said that in her response earlier. That is what we are trying to address here.

Whether it will happen, there is a perception that people want to be confident that there is no undue influence, that people are not buying favours in having their projects assessed as major projects. This is a significant piece of legislation with significant community concern. It is interesting that the Government does not seem to be concerned and would argue against us amending this bill on the basis of community expectation when community expectation is an argument that is being put forward in other pieces of legislation we are being asked to consider. It is an important consideration.

If we had donation disclosure reform, Electoral Act reform, in front of us, we would not need to move this here but we do not have that. We do not have anywhere else to put this at

the moment. This is about a concern put forward by many members of the community. If the Government has not been willing to address that, it falls back on us to do that.

Mrs HISCUTT - This amendment is an exclusion amendment. The member for Murchison put a good argument forward for that. It belongs in the Electoral Act. The planning system, the planning scheme, is not a place to dump all other issues. It is just not the place for it.

I have just been advised that development applications - you mentioned the DAs for councils - are absolutely a consequence of this amendment. The $200 million development does not come anywhere near a major project development. It does not, a big building in the middle of -

Ms Lovell - I do not understand the relevance of that.

Mrs HISCUTT - The point was you could have a large money development in a council, up to a $200 million development in a council, which does not come under this, which still could be affected by donations or -

Ms Lovell - It is a separate issue.

Mrs HISCUTT - No, DAs are absolutely affected under this amendment. This is an exclusion amendment. The decision - just bear in mind, honourable members, that the decision is made by an independent commission or regulator. It has nothing to do with the minister. The minister just gets it to the start point and that is that.

Mr Valentine - But that is the point.

Mrs HISCUTT - It does not matter; the commission is independent. They can kick it out if they think it is irrelevant. It is up to the commission. They are the ones who make the decision. Just bear that in mind. The minister does not make the decision.

Madam CHAIR - The member for Hobart has had his third call, just to remind him.

Ms ARMITAGE - Madam Chair, I understand totally where the member is coming from with this amendment. Many people in my community as well are concerned about political donations and major projects. The amendment I would have liked to have seen would be, as you mentioned, Madam Chair, 'the proponent should declare any political donations'. Personally, I think that would have been a better way to go. I am concerned that many unintended consequences could come from the amendment we actually have before us, and that people may be excluded who perhaps should not be excluded for whatever reason, and that it actually could have a significant impact on the bill before us.

I also accept the Leader's advice that it is an independent planning commission. I certainly would not like to cast any aspersions on that commission. I am sure everything it does is certainly done in an independent way, and the commission would not be influenced at all by any political donations. I do not know whether the member has any intent, or anyone has any intent, of putting an amendment up to do with declaring political donations. However, I also accept that this really should be in another bill, should one come before us related to the Electoral Act.

We are taking politics out of planning, hopefully, with this bill. I will certainly listen to other contributions, but at this time I am probably inclined not to support it, mainly because of the unintended consequences that could flow from the amendment.

Mrs HISCUTT - I hear what the member is saying, but I do not think the amendment in front of us at the moment has been consulted enough with the proponents and the public. I think amending amendments on the run is not the way to go. That is what we are doing; we are amending amendments on the run.

Ms Webb - Madam Chair, if we had a little more time -

Mrs HISCUTT - We have the amendments before us, which we are dealing with as we speak. Just bear in mind, honourable members, that the decision-making capacity belongs with the Tasmanian Planning Commission, not the minister.

Ms WEBB - Madam Chair, I find this one an interesting one to contemplate. I am not quite sure where I am landing on it yet. I do not think the Leader has to remind us again where decisions lie in this bill; I think we are quite clear about it. I think that consideration of this goes beyond just that simple and simplistic insistence. Perhaps more than many in this Chamber, I am very aware of the consequences of financial support to political parties, particularly in relation to elections and where that can land us as a state, and what it means on particular issues in this state. I am highly attuned to, and probably aligned with, the community concern that arises around this issue of donations and what influence that buys you - because, quite frankly, no-one spends money without expecting to get a result.

We know people make political donations in order to have influence of some kind. That happens in ways that could be relatively benign, but at times it could happen in ways that are not benign - that take us further towards what we might think of as corruption, and I think that is where the concern is. It is not difficult to get into murky territory when it comes to donations, particularly when it comes to what you can benefit from as a result of having made them.

I am pleased we are having the conversation about this in the context of this bill. It is clearly relevant to have the conversation in relation to this bill. The reason I think it is clearly relevant is that this is about serious investment in all kinds of ways - financial and otherwise - in development in this state, and the appropriate process around that that has appropriate transparency and probity. I think this bill has, in so many ways, successfully navigated issues around transparency and probity - not perfectly, we will talk about those more in other amendments - but it has done that in so many ways and brought that confidence for the public.

I think we need to contemplate being able to deliver confidence to the public on the matter of financial influence around the political role in this process. I think that perception is important. Perception is part of a social licence that is associated with a project, and I think in the absence of other reform, the stalling of other reform - if we progressed it when it was first put forward two years ago, we could have had electoral donation reform done by now; we would not be having this conversation. It could have been done and dusted pre-COVID-19, but that did not happen.

The context in which we find ourselves is one in which there is not adequate electoral donation transparency and declarations, and the community, rightly, is incredibly concerned by that. They are incredibly concerned, because as much as the Premier may say the next

election is so far away we have time to do it, we are actually well past the halfway point between elections, and these things do take time. On the time line we are on, with the attitude expressed by the Government, I think there is no guarantee we will get electoral donation reform before we face the next state election.

I would love the Government to thoroughly commit that it will be done well before the election period starts - so not before the election itself, because it would be far too long to do it right in the very last moments in February before a March election, for example. We should absolutely be committed to being done and dusted by halfway through next year, because that takes us then into an election period.

I will move on from that, because it is not directly related to this amendment - but it is painting a context for why this has been forward for us to consider, and it is a valid context because there is a huge gap there.

I would make a distinction about a couple of things in relation to this amendment - and with one of those, I hope it allows the Leader not to have to repeat herself again, because I think we have all heard it the first six times.

It makes a distinction between an ability to influence, or for there to be the perception of influence of a process - compared to the influence or perception of influence of a decision.

I think the concern that is validly associated with this bill is that in a variety of instances in this process, there is an intersection with political action from a political actor, the minister. There is the initial declaration, and there are a few other points where the minister can take particular actions or prompts. They are not enormous ones, and they are not decisions about whether this goes ahead or not. That is clear. We do not need to hear that again, but they are actions in the process - and the perception or the material influence of the process from a political actor is still worthy of being contemplated, regardless of where decision-making sits.

I am very interested to contemplate the distinction the member for Murchison made in her contribution, about the consequence of this amendment prohibiting participation in this process - which I agree is actually quite extreme, and is potentially unnecessary in all instances, when from a transparency point of view what we want to see is the connections between developers, between proponents and between political actors.

Proponents should absolutely be able to have, express and financially support particular political actors, as per their particular values and views, in a way that fits with our electoral system as it stands, or as it may stand in the future. That is an activity we engage in a free society as free citizens. You can express your political views, you can support your political views with financial donations.

Should how you do that, and the extent to which you do that, prohibit you from being involved in something that everybody else could be involved in? That is a tough one. I do not know that it should. I absolutely think we should know about it. I absolutely think it should be declared. It should be open and honest. Imagine if we had had an open and honest picture of the donations made ahead of the 2018 state election? We only have a picture of about a quarter of it from the Government's side of the ledger. Imagine what the Tasmanian community may then think and be able to think about in future in relation to the quantum of support and funding that came from certain sectors of industries.

This visibility is really the key. Visibility does not prohibit people from taking action, it allows citizens to see things transparently and clearly. I think it serves those needs around appropriateness and probity and accountability. I am a bit stuck.

As an extension of the idea that declarations of these things in the public domain as part of this process would be appropriate and a good addition to this bill, I suggest in that instance it is not just the three years prior that would be relevant. It would be the three years prior, the duration of the time that the process is undertaken, and three years after. That would apply to declarations needing to be made, because in that sense it covers that idea about the possible perception of improper influence or actual influence, not just leading up to it, because you might not buy a favour leading up to something. You might reward a favour after the fact, so I think a period of time across the process is probably contemplatable.

I am still thinking this amendment through. I am very attuned to the need for it. I am very attuned to the community sentiment about it. I think there are some problems with it. I am very aware those responsible for this bill, and all the work that has gone into it on some level, would be understandably horrified about the idea of this being inserted. I actually get that, so that is part of some thinking.

I am still thinking through how it balances against the other considerations,. I also think it would be better dealt with in our electoral donation reform laws. I would be interested in a commitment to see, if we were to get this through, it repealed once we have done and dusted our electoral donations reform efforts. Then it would no longer potentially be necessary, so it could come out. The pain might be temporary if the Government got a shuffle along and delivered us the reforms. But it is the temporary pain that would help push along a process, until such time as the Government delivered appropriate, open, transparent donation reform in the interests of the community. If you are interested in doing that, move yourself along. Deliver it. You are pushing me more towards it.

I will sit down now. I am thinking this through. I am interested to hear other members' contributions on it.

Mrs HISCUTT - This issue was never raised directly. It was never directly suggested it should be included in the bill, and I have said nearly all the things the Government can say without repeating it for the seventh time, but it is nothing to do with the minister. This bill has been consulted on, and this amendment we have talked about has not been consulted on. This bill has been consulted on for three years. There have been three rounds of consultation and over 1700 submissions have been made on it, and there have been amendments all the way through it, but this particular issue was never directly suggested. You talk about consulting the community and how it should be done - this amendment flies in the face of that.

Ms WEBB - I am going to respond to that. What I believe, as I expressed in the second reading speech yesterday, is there was a fundamental gap, a failure, at the beginning of this process to involve one of the essential stakeholders who should have been in the mix, and that is the community. Right at the outset, before anything was put down on paper and drafted into a bill, right before that when we said PORS has not worked, how are we going to do that in a better way? That process right there should have involved all stakeholders and the questions should have been open ones. As I said yesterday, to proponents and those representing that side of the equation: What are your needs? What are your concerns? What do you want? The same questions should have been put to the community.

If we are looking to put in place a process that allows for a consolidated and effective planning of major projects in a transparent and open way to assist with effectiveness and efficiency of that process, as the community, what would you like to see in that? What are your concerns in relation to that? What are your expectations in relations to that? If we had had that, if we had asked the community at that early stage before they were desperately responding to something on paper, already pushed into a sense of anxiety and pushed into a sense of having to be adversarial about trying to argue for things because they were not asked first - you could have asked them. At that stage the community would have expressed quite a clear expectation and desire to see that the process anticipated to be developed should absolutely protect against financial influence into the political elements of it. There should be openness, transparency and effective measures taken to give the community confidence that inappropriate influence will not be brought to bear by political actors in the outcomes of the process.

At that stage people would have expressed that. The stage did not happen. They did not have a chance to. You may well say they have not raised it since and refer to the time they have had to respond, but I put it to you that for community groups representing their communities and for individuals having to interact with these consultation processes, it is an enormous task. They are not paid people in the department doing this as their job. They are concerned, interested and committed community members who are trying to deliver the best outcomes for the people they represent in their local communities. When they come to consultation processes and respond to what they have been provided with the opportunity to respond to, which is typically something that is already set, it is a big deal. They mostly respond to what is there on the page in front of them. They try to bring as much big and good thinking to it as they can. They do a great job.

Madam CHAIR - The focus comes back to the amendment and the question being asked.

Ms WEBB - I am just pointing out that I believe you cannot say the community did not ask for this earlier, therefore we should not do it. The community is clearly asking for it now; it is clearly expressing a concern. I think that concern would have been there throughout the whole process.

Mrs HISCUTT - I need to reiterate one more time that the community had three years and three rounds of consultation. This was never directly raised in those three years. This is something that needs to go to the community for direct consultation when the Electoral Act is revised, not during the major projects. This is the wrong place for it and it should not be here. I can only say it one more time - this is for the seventh time - the independent Planning Commission makes the decisions.

Dr SEIDEL - Madam Chair, I confess I am a bit puzzled by it. The reason the community was not consulted, did not raise it, was because when the process started three years ago there was an election the year after when the Premier committed to addressing electoral reform donation laws. Two years later it has not happened. There was a report, but that is hidden somewhere in a drawer, and has not been released. That is why we are talking about this. The member for Nelson is absolutely right - context is important here. We need to see that piece of legislation in that context. It is relevant. It should not be relevant, but unfortunately it is. Election commitment two years ago, nothing was done. The report was done, put in a drawer, hidden somewhere, not to be released because it is not reported.

If there is anything you can fast-track, fast-track electoral reform and do it next week, fast-track it. It is an important amendment. I do not want to see the legislation being characterised by the unhappy triad of major projects, major party donors and major influence. I must admit, although I am a pretty new member of the Legislative Council, I am really unimpressed that a minister of the Crown feels he can direct us to rubberstamp legislation just because he is unhappy about the members of this Chamber daring to propose amendments that seek to strengthen legislation. I am pretty unimpressed.

Evidence-based legislation that is logical and transparent should be the minister's best interest. In fact, it should be the minister's only interest. It certainly is in the interest of our community. Members have called on that many times before now. The community is concerned. People are concerned that a major project can just be declared by the minister snapping his fingers.

The role of the minister is important, otherwise the minister's role would not be clearly defined in the legislation, because he initiates the process. It should not become a bidding war between the highest bidder who wants to see a program progressed.

Mr Valentine - It is also what it avoids.

Dr SEIDEL - It is initiation, it is an important role. Of course it is important, otherwise it would not be in the legislation. What is the point? At the very, very least, what we can ask for now in the current context is to ask for transparency. That is what people expect. We are asking for due process here. Undue influence, seeking unfair advantage, supported by a good amount of money to political decision-makers is not in the interest of the democratic process either.

I should not need to point it out; it should be a given. It should be a given, Leader. It is the twenty-first century and we need to put the legislation into context. The member for Nelson made that context very clear. The context here is that lack of transparency of political donations does indeed cast a shade over the Government and its action. That is what was pointed out in the editorial in the *Mercury* this morning. That context is that the Premier stated he is just too busy to fix the problem. He is not even thinking about it.

As I mentioned, the well overdue report on the Electoral Act and donations is hidden in a drawer. Why has it not been released? What else does the Government have to hide? In this context, I am asking for the amendment to be considered by the members of this Chamber and there is a review clause in there. We are going to review legislation in five years time anyway. I will still be here. Take it out again. And hopefully by then we have the Electoral Act fixed and we also have donations reform introduced.

Mrs HISCUTT - The minister does not just, to rephrase your term - 'Snap his fingers to put this into a declaration', there is a big process for him to do that.

Ms Rattray - Or her.

Mrs HISCUTT - Or her. Part 60Q where the contents of the declaration of a major project must include, and there are plenty of things that it must include but at (e), in particular, it says -

> the attributes of the project specified in section 60M(1), which, in the opinion of the Minister, are such that the project is eligible to be declared to be a major project.

That is a transparent way that has to be done in a transparent method and he or she must give a reason and has to have the guidelines there for everybody to see and must have the eligibility criteria there so just to answer on that particular point.

Members, the Government has made a clear case that - going back to my farming days: what is a weed? A weed is a plant out of place - this is not placed in this bill. This is an electoral act amendment and it should not be in a major projects bill.

Farmers always say - 'What is a weed?' I do not mean to be disrespectful but that is the term I use. This does not belong here.

Ms RATTRAY - Madam Chair, we seem to be having second reading speeches on an amendment. That is not normally the process but obviously, we have new members in the Chamber so I will make it a question.

Madam CHAIR - I am making some allowances here because this is an amendment. It is a new concept, so people have to be able to explain their support or otherwise.

Ms RATTRAY - I take it on board but with all due respect this was a second reading contribution yesterday as well. I am mindful if we had a second reading speech on every clause there will be no bill. Putting in this amendment into this bill will possibly throw the bill out completely. That is for someone else to make the decision, but I am mindful there was pretty much genuine support for the bill to get it into this stage -

Mrs Hiscutt - While the member is on her feet, the last round of consultation was between March and May this year, so it has been very recent.

Ms RATTRAY - In light of that, there has been opportunity for consultation and obviously, any member can bring a bill into the House. We have seen an amazing job the member for Mersey has done with his bill.

Mrs Hiscutt - Just a point of correction - you do need the Premier's permission to do that.

Ms RATTRAY - To bring a private member's bill into the House?

Mrs Hiscutt - Yes.

Madam CHAIR - To access OPC.

Ms RATTRAY - The former member for Mersey did not have access to OPC when she brought her bill in; she had her own advice at the time.

Madam CHAIR - Let us stick to the amendment.

Ms RATTRAY - The question is to the Leader - is it definite the bill will completely fall at this hurdle? And I challenge any member to bring in an amendment to the Electoral Act. If that is what you want to see done, you can do it as soon as you possibly can.

Mrs HISCUTT - It is a matter that this does need to be in the Electoral Act. As to your other question, that is for the minister to make a decision in another place.

Mr GAFFNEY - Just a short contribution. First of all, I made it clear last night in my speech I do not support the bill overall, but my mandate is to make certain any bill we vote on at the end is strengthened by the process we undertake.

There have been some comments in this part of this amendment that we have gone outside what this amendment is about and we have gone into the reasons why we may or may not like the bill. If we are going to do that on every amendment it is going to be quite confusing. I also appreciate Madam Chair's explanation for that too as for this one.

Does this amendment strengthen this bill? No, it does not. It confuses this bill for future people who may want to go down this path, so on that point I will not support the amendment.

Is this the right bill for this amendment to be in? No, and most people have said that it is because of the Government's inaction and they get the point but I will not confuse this bill because something has not happened elsewhere.

I will not support the amendment and at the end of the time I probably will not support this bill anyway, but I cannot support the amendment.

Mr DEAN - I need to make my position known on this and I did briefly talk to the mover of this amendment before coming into this place. I want to comment on one issue the member for Huon made. You cannot lump amendments into bills because you feel like it because there has been inadequate action taken somewhere else on another matter. You cannot do that. Bills are structured in such a way that they cover certain areas and there are certain matters that are outside the scope of a bill. If we start to open these bills up to bring in any other outside matter, at the end of the day we are going to have a mishmash of statutes with stuff in them that does not belong there and it is going to be difficult to follow them.

If you are looking for an issue regarding the amendment we had before us, clearly you would go straight to the Electoral Act, as everybody has said, to look at it there. It is clearly what you would do.

The Government has to accept a big part of the responsibility for this amendment coming forward. I can understand the frustrations of people in this place. This has been going around for a long time. I am going to make this statement, and the member for Rumney might dispute it, but I think this is a matter of making a point, making the Government well and truly aware, that we have had enough and we want this matter fixed. Therefore, the reason for trying to have it in this bill.

The reason I made that statement is the member for Rumney did make the comment, correct me if I am wrong, 'maybe it is not the appropriate forum, this bill', I think you are meaning the amendment. It is probably not the appropriate forum.

Ms Lovell - I said you could argue that it was not.

Mr DEAN - For the member moving an amendment to make a statement like that is that they are a little uneasy about what is happening and their position of moving this amendment in this situation. If I were moving an amendment, I would not go anywhere near a statement like that. I would be saying it definitely belongs in here.

Madam CHAIR - Let us not reflect on the member. Let us focus on the amendment.

Mr DEAN - I think I am focusing on the amendment. Yesterday when we were talking about this amendment there was also the comment made that this could open a Pandora's box if it is in this legislation. We would probably need to look at including it in LUPAA and in other acts as well when dealing with development applications. So why would it only apply in this bill, the Land Use Planning and Approvals Amendment (Major Projects) Bill 2020? Council laws and all others involved in development applications should be subject to the similar principles and views and so on.

It opens all of that up as well. We need to be careful. I understand why the amendment is there, but I cannot support it.

Ms Rattray - I think we all understand and appreciate it.

Mr DEAN - I would like to say yes, put it in and it might make them move. I can understand why it was brought forward but I am not in the position to be able to support the amendment at this time.

Mrs HISCUTT - At the end of the day, this does two things. It requires disclosure of donations, and it bans access to the system of seeking a planning permit if a donation has been made.

Ms WEBB - Third call, and I will be relatively brief this time. Two points to pick up on, and then a final reflection.

I would just like to respond a little to the concept that maybe this has been put forward to make a point. I think that is a fairly unfortunate way to characterise it. I think we all would have received a very large number of representations from people that included concerns of this sort. There is a clear community concern that this is done, far from to make a point, but as a reflection of concern that is genuinely held in the community.

To try to diminish that, or suggest there is some sort of flippant nature to that concern, I think is unfortunate.

Mrs Hiscutt - The suggestion was never made. It was a consultation process.

Mr Dean - You are not suggesting I was flippant in my comment, were you?

Ms WEBB - It was not related to you, but in relation to the consultation process - just another reflection on that, and now that you have raised it a few times, it probably sunk in the third time.

I acknowledge there have been three instances of consultation. I suggest probably the early ones were at a time when there was an expectation that electoral donation reform would occur, such as the member for Huon pointed out, so the context there was quite different. People had an expectation that this matter would be dealt with.

I also point out that the final consultation time of this bill - which was happily extended by a matter of some weeks, but it did occur, honourable Leader, between March and May this year.

Mrs Hiscutt - It did.

Ms WEBB - That is right, it did. Now, what else was happening between March and May this year when people were responding to this? This very crucial - quite substantial - proportion of the total consultation time was actually given to people at a time of the most active end of a global pandemic.

Madam CHAIR - This is really a second reading contribution about the consultation process. If we can move back to the amendment and stick with that.

Ms WEBB - I will. I am responding to a point about the amendment and why it might not be perceived to have community backing, because of not being brought up in consultation, that consultation occurring in a pandemic. A large portion of it. If the Premier cannot turn his mind to certain things, the community find it difficult too.

Where I am going to land on this is that I am not going to be able to support the amendment. I know that is will disappoint a lot of people who are very committed to and interested to see it pass. The sticking point for me is actually the prohibition part of it. That is the sticking point - if only this amendment had been presented with a focus on declaration and on transparency so that things were visible.

The other concerns I had about it, potentially not belonging in this bill or being done on the run, would have been outweighed, and I would have put it there knowing we could actually repeal it again once a broader function was there in election reform.

I apologise to those who will be disappointed by the fact that I will not support this. I certainly support the sentiment of it. I certainly support the fact that the community is highly disturbed to see this sort of thing addressed effectively, and in the context of this bill they are highly concerned about it, but I will not be supporting it.

Ms LOVELL - Madam Chair, just a few comments in wrapping up and moving the amendment. The member for McIntyre raised a point around support indicated in the second reading, and whether that was genuine. I wanted to assure the member that it was genuine. We have said on a number of occasions that we do support this bill, but we do want to see it strengthened, and, in particular, this significant community concern addressed.

I want to address comments made by the member for Windermere, who suggested this was about making a point. I can assure the member that is not the case; that is not what we are here to do. We have drafted a private member's bill around election reform. We are taking action in that area. This is about addressing a concern raised with us by a significant number of community members around this particular issue. I can assure the member that we have

received thousands and thousands of emails - I have seen more emails on this bill than I have seen on any other bill I have dealt with in my time here.

I want to also reassure the member for Windermere that I am not in any way uneasy about this amendment being made to this bill and this clause potentially sitting in this bill. The comments I made were that you argue it sits better in the Electoral Act under a broader donation reform, but in the absence of that taking place, there is no reason it could not sit in this bill. We had it confirmed in the briefing yesterday that it would not impact on the operation of the assessment process.

I also want to address concerns raised by the Leader, which I neglected to address in earlier contributions around the independence of the planning commission and the development approval panel. We are not reflecting in any way on their decision-making or independence. This is about the role of the minister, specifically the minister, and the role the minister plays in referring projects for assessment. The community concern is there could be some influence over that.

I think cases have been made for both sides of this argument. I am sensing the Chamber is perhaps divided on it, I am not sure, but I feel comfortable with moving this amendment and urge members to support it.

The Committee divided -

AYES 5	**NOES 9**
Ms Lovell (Teller)	Ms Armitage
Dr Seidel	Mr Dean
Ms Siejka	Ms Forrest
Mr Valentine	Mr Gaffney
Mr Willie	Mrs Hiscutt
	Ms Howlett (Teller)
	Ms Palmer
	Ms Rattray
	Ms Webb

Amendment negatived.

Proposed new subclause 60C agreed to.

Proposed new subclauses 60D to 60G agreed to.

Proposed new subclause 60H -
Minister may request information from council or State Service Agency

First amendment -

Ms FORREST - My first amendment to proposed new section 60H(1) -

Leave out "State Service Agency" (wherever occurring).

Insert instead "relevant State entity".

I to refer back to a previous amendment we moved past because of the postponement of proposed new section 60B to prosecute this, which is easily enough done, but bear in mind that if this amendment is supported, we need to go back to proposed new section 60B. I will get up on that subclause and seek to complete the process, if you like.

As I mentioned in my second reading contribution, I have long supported an integrated approach to development, particularly major developments, and any infrastructure projects and the like. A major project is by its nature major. The intent of this policy change the Government has proposed is there is a front end process where a project, with all its complexity, which is part of the reason it is a major project to start with, is considered up-front.

The term 'a fatal flaw' has been used to identify an aspect that may mean the development will have no chance of being approved. In order to do that the Government has included the reference to a State Service agency, which was an amendment in the other place, or was that already there? Anyway, they have included that and they could prescribe other parties to give input into the assessment criteria and into whether this project should be considered.

There are significant state-owned companies and government business entities that have a crucial part to play in many major developments. I instance for members' recollection my second reading contribution - for example, if you were to build a new smelter or something like that on the west coast - where you would naturally build it: where the minerals are. We know smelters are high energy users and the TasNetworks infrastructure there is pretty much at capacity and would require significant upgrades should such a development go ahead, depending on the location, of course.

That could be a potential fatal flaw that might only become apparent much later down the track if it were not part of the up-front assessment, so it makes much more sense to have an integrated approach. It does not change the policy position. In fact, it enhances it because it makes sure the project as a whole is considered. Not only is the social, economic and environmental impact considered, but all the other aspects the State Service agency may include. For example, the Health department in terms of looking at the public health and welfare of a particular development if it was a major social housing development and making sure there was adequate open space and things like that in it. There are lots of ways these different agencies should and can engage. If it is a major development that might use rail, TasRail should be consulted. If it was a major development that relied on the port and access to the port, Burnie Port, for example. We know how constrained that is.

These are the sorts of things should be at the front end of any assessment because I do not believe any proponent should go through all the effort of actually building a new smelter and then find out there is no energy to run the thing. I am sure that would become apparent during the process, but let us do it at the front end. That is the intention, I believe that is this policy position, so I am asking members to support what is not a significant amendment in itself. It is including government businesses, as described under the Government Business Enterprises Act and state-owned companies and they are both there because - I cannot remember which is which but Hydro is one and TasNetworks is the other. It is a mix. If we had all state-owned companies or all GBEs, it would not be an issue, but we do have both.

I ask members to support this to enable all those entities, not just the State Service agencies but also the government businesses and state-owned companies in the front end process to make it a much more integrated and comprehensive approach.

Mrs HISCUTT - Madam Deputy Chair, the Government supports the amendments (1) through to (8). They are sensible, well-considered and will improve the bill. We will also support amendment (9) when you get to that point. It removes an anomaly that was previously identified but not addressed and it will improve the bill.

Amendment agreed to.

Second amendment -

Ms FORREST - Madam Deputy Chair, my second amendment is to proposed new section 60H(3) -

Leave out "Secretary of a State Service Agency".

Insert instead "Secretary, or chief executive officer, of a relevant State entity".

This amendment is to ensure that when you engage with state-owned companies or government businesses because they do not have secretaries - they have chief executive officers as the heads of their organisation, who would be the person you would be liaising with. These amendments are basically to give effect to the first amendment we have just agreed to.

Amendment agreed to.

Proposed new section 60H, as amended, agreed to.

Proposed new section 60I -
Persons to be notified of proposal for declaration and given major project proposals

First amendment -

Ms FORREST - I move the following amendment to proposed new section 60I(1)(f) -

Leave out "State Service Agency".

Insert instead "relevant State entity".

Second amendment -

Ms FORREST - I move the following amendment to proposed new section 60I(2)(d) -

Leave out "State Service Agency".

Insert instead "relevant State entity".

Third amendment -

Ms FORREST - I move the following amendment to proposed new section 60I(3) -

Leave out "State Service Agency".

Insert instead "relevant State entity".

Fourth amendment -

Ms FORREST - I move the following amendment to proposed new section 60I(3)(a) -

Leave out "State Service Agency".

Insert instead "relevant State entity".

Fifth amendment -

Ms FORREST - I move the following amendment to proposed new section 60I(3)(b) –

Leave out "State Service Agency".

Insert instead "relevant State entity".

This amendment is to give effect to the intent of the amendment I moved in the first instance.

Amendments agreed to.

Proposed new section 60I, as amended, agreed to.

Proposed new section 60J agreed to.

Proposed new section 60K -
Contents of determination guidelines

Mr VALENTINE - I am interested in 60K(4) -

> The determination guidelines are not intended to limit the matters to which the Minister is to have regard in determining whether to declare projects to be major projects.

Is this to ensure that matters the minister considers in granting discretion to declare a major project are not limited to just the content of the guidelines? What is the reasoning behind allowing the minister that sort of leeway?

Mrs HISCUTT - Yes, the member is correct. It could be something like the social licence could be an issue. That could be addressed there.

Proposed new section 60K agreed to.

Proposed new section 60L -
Revocation of guidelines

Ms RATTRAY - With regard to the revocation of guidelines -

> The Commission may revoke the determination guidelines.

The proposed new subsection then goes on to talk about the time frame and the like. Could I have some further clarification about what that actually means in a practical sense, and when that would be used?

Mrs HISCUTT - The reason is if they want to revise the guidelines, they get rid of them, then start with a whole new set.

Ms RATTRAY - Would that be the only time?

Mrs HISCUTT - Would that be the only time? Probably. You might want to revise a couple of times, but you reckon you would get it right the second time. Subclause (4) of that goes on to say -

> The Commission, as soon as practicable after revoking the determination guidelines, must issue determination guidelines under section 60J(1) in their place.

Ms RATTRAY - When that process occurs, would it be in consultation with a proponent, or would that be completely outside it? Would there be some communication about why that process was taking place? Or is it something the commission decides, that they need to be redone - add, subtract, whatever - and then the proponent is notified? I am interested in what involvement the proponent might have through that process.

Mrs HISCUTT - These are generic guidelines; they have nothing to do with the proponent. It is if the commission needs to update the proponent.

Ms RATTRAY - One final question; I know I am on my third call, Madam Chair.

In regard to the guidelines, would the public be made aware there had been changes to that? Not everyone surfs the TPC website, I expect, to see what might have been updated. I am interested in how that information is put out into the community for the community to have that understanding.

Mrs HISCUTT - That is covered in proposed new section 60J(4), which talks about publishing. Do you want me to read it word for word?

Ms Rattray - I think it is worth putting on the record.

Mrs HISCUTT - Okay. Proposed new section 60J(4) says -

> The Commission, as soon as practicable after issuing determination guidelines -

(a) must publish in the *Gazette*, and in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying -

(i) that the determination guidelines have been issued; and

(ii) that copies of the guidelines may be viewed at a place specified in the notice and viewed and downloaded at the electronic address of the Commission specified in the notice; and

(b) must ensure that copies of the determination guidelines, while in force, are available -

(i) for viewing by members of the public at the place specified in the notice; and

(ii) for viewing and downloading at an electronic address of the Commission specified in the notice.

(5) Determination guidelines issued under subsection (1) are of no effect until the notice in relation to the guidelines is published in the *Gazette* under subsection (4).

Proposed new section 60L agreed to.

Proposed new section 60M -
When project is eligible to be declared to be major project

Mr DEAN - I raised this in my second reading contribution. It refers to the three points in identifying whether a project should be declared a major project. We have (a), (b) and (c).

Members will notice that a project of significant scale and complexity is further defined to identify what meets that criteria. There is nothing in this proposed new section to further define that the project is of strategic importance to a region. Why has that not been further defined as well? Is it somewhere else in the bill? I would think it should have been here, if it is. To clearly identify what is of strategic importance, we are talking about a regional area here. Obviously, there is a good explanation for it, but I would like to hear it.

Mrs HISCUTT - If you go back to page 45, it talks about 60J, Determination guidelines. That is the determination of the guidelines. Once you take into account all that is in that section, you will come up with the answers to your question.

Mr Dean - Why?

Mrs HISCUTT - Because it will determine at that point whether it is (a), a project of significant impact on a region, (b), whether you are talking about a project of strategic

importance to a region. That could mean it will not be a major project. The guidelines are there to help the minister to work out whether it is going to be (a), (b), or (c). I hear what you are saying about the significance scale that goes on in proposed subsection (2). The project is of strategic importance to a region. That is why the guidelines are there - to give the minister help to determine where to put these.

Mr DEAN - Proposed new section 60M, and this is why it is difficult at times to work through some of these bills, specifically refers to the three areas that must be considered by the minister to declare a project a major project.

We have (c) - 'the project is of significant scale and complexity' - further identifying clearly the position that a project must fit into to meet that category but nothing there for (b) or even (a), but (b) is the more important one. Why it is not included in that area? For simplicity, if you were going to this bill and looking at this, you would expect to find this one clause rather than go back somewhere else to get one and somewhere else to get the other.

Mrs HISCUTT - I understand what you are saying now. You have three paths being determined and (2) expands more on (c). The guidelines will help you define whether it is (a), (b), or (c) but if you happen to be (c), proposed subsection (2) gives you more clarification of what is needed for that proposed new section because it is a bigger job. The determination is made by the commissioner.

Ms WEBB - To clarify it a bit further - and this is relevant because I am moving an amendment on this section - I asked myself the same question the member for Windermere did. You have three things that are eligibility criteria, two of which must be met for something to be deemed a major project, and then the bill goes on to further elucidate one of those three things in more detail. There is no reason to do that.

My preference for an amendment here would be to remove proposed new subsection (2) altogether. I erred on the conservative side of making the most minimal change to the bill that I could that would still be effective and at least clarify that proposed subsection, which is what my amendment is attempting to do. I tried to do the least thing rather than the more dramatic thing which is to take (2) out altogether.

One of the things I would like to clarify with the Leader is, if there is to be more detail in the determination guidelines - which we would hope there would be - to assist the minister in understanding these three key eligibility criteria, (a), (b), and (c) in proposed new subsection (1), and in assessing which, if any, of those are being met, why would that detail not be there for all three of them and not be needed in this bill at all?

If there were a higher level statement in the bill, saying '(a) the project will have a significant impact on, or make a significant contribution to a region's economy, and environment and social fabric', we would all have a generally reasonably coherent idea about what that meant in the bill to be further put in a determination guideline.

Same with (b), 'strategic importance to a region'. That is probably the most ambiguous of them and needs some better understanding put around it so people can decide on what basis the minister really is assessing the project against that. That is a fairly ambiguous criterion to meet.

We have a generally good understanding of what (c) is, 'the project is of significant scale and complexity'. Scale: how big is it? If it is a big one and it stretches a long way across many areas into different municipalities et cetera, people would have scale pretty clearly in their minds. Complexity: people would have in their minds too in terms of either technical complexity or environmental complexity or those sorts of things.

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

QUESTIONS

Ambulance Tasmania - Recruitment Campaign

Ms LOVELL QUESTION TO LEADER OF THE GOVERNMENT IN THE LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.32 p.m.]

On 16 April, the Minister for Health said in a statement that advertisements had been placed for a recruitment campaign focusing specifically on paramedics and that 40 to 50 positions were available.

(1) How many permanent appointments have been made as a result of that recruitment campaign? Where in the state are these appointments located - north-west, north or south?

(2) How many, if any, of those appointments were intern positions?

ANSWER

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

(1) Twenty paramedics have commenced since May 2020, with more expected to be appointed for the north-west in coming weeks, following the completion of the latest round of recruitment. In total, 29 fully qualified paramedics have so far accepted positions with Ambulance Tasmania - that is, 13 in the north and north-west and 16 in the south. All positions are on a permanent basis, bar two, which are casual.

(2) All the positions were for fully qualified paramedics.

Education - Teachers - Reducing Instructional Load

Mr WILLIE QUESTION TO LEADER OF THE GOVERNMENT IN THE LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.33 p.m.]

Through the negotiation process of the Teachers Agreement, the state Government committed to reducing instructional load for primary school teachers. This included an additional 85 FTE staff across primary and district schools from term 3, 2020.

(1) The Department of Education and Training has funded 85 FTE across the system, but have all 85 FTE staff been employed?

(2) What oversight and accountability have there been to ensure implementation?

(3) Do all schools have the same classroom learning time or are there discrepancies across schools?

(4) If there are discrepancies across schools what is the contact time difference for the longest and shortest day?

ANSWER

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

(1) Each school has ensured that the required level of teaching staff is in place. There is no central register of employment numbers engaged as a result of the additional funding provided at this time.

(2) Schools were provided with information regarding indicative FTE new allocations for staffing profiles in December 2019 to reflect the reduction in instructional load from 22 to 21 hours per week for primary teachers from the beginning of term 3, 2020. Final FTE allocations were confirmed following the census process. The final additional FTEs allocated across primary schools and district schools were 87.35. From February 2020 the department's recruitment and learning services human resources team have worked together to ensure any specific recruitment needs for schools have been met.

It is important to note the funding for these new positions has been allocated to schools. The department forwarded a specific advice to principals in June 2020, advising that principals should work with teachers to implement the new instructional load, and that support is available through Learning Services if required.

Schools and Learning Services have been working on implementation. Where schools have required assistance, Learning Services has worked directly with that particular school. The Australian Education Union has been consulted on this matter. It has been agreed between the department and the AEU that the parties will work together to conduct an audit of implementation early in term 4.

(3) Classroom learning time is not prescribed, and there are variations by year levels and school, based on local need and context. The department prioritises supporting quality teaching for learning through pedagogy, curriculum and assessment practices at a local level.

(4) It has been identified that there is minimal difference between schools. The majority of schools have student contact hours between 9.00 a.m. and 3.00 p.m.

Screen Tasmania - *Wild Things*

Mr DEAN QUESTION TO LEADER OF THE GOVERNMENT IN THE LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.36 p.m.]

My questions relate to Screen Tasmania. Will the Leader please advise -

(1) Did the Government through Screen Tasmania provide $50 000 in funding for the making of the *Wild Things* documentary?

(2) If so, when was this funding agreed to?

(3) The company making the *Wild Things* documentary, 360 Degree Films, made a public announcement mid-2019 upon receiving funding from Screen Tasmania. Why is there no mention of this funding or this project anywhere on the Screen Tasmania website?

(4) Why were all pre-2020 project funding approvals removed from the Screen Tasmania website at the end of August 2020?

(5) Is the Government aware of the content of the *Wild Things* documentary, and has anyone in the Government viewed the final version of the film prior to its public release on 27 August 2020? If not, why?

(6) If so, what is the Government's understanding of the message from this documentary?

(7) As the Government has provided funding for *Wild Things*, will it be in a position to approve the documentary and ensure the accuracy of the content?

(8) Is the Government aware of the identity of the other private donors for the making of the documentary?

(9) If not, does this not put the Government in a compromising position as to the content of the documentary, should it be inciting and encouraging protest action?

ANSWER

Mr President, I thank the member for Windermere for his questions.

(1) Screen Tasmania provided funding of $50 000 for the making of *Wild Things*. The investment is alongside financial partners Screen Australia, Film Victoria, Screen Territory, and Documentary Australia Foundation.

(2) 2 May 2019.

(3) It is normal for the announcement of Screen Tasmania investment in a documentary project to be made at the time that the project is released to the public to encourage

viewership. As *Wild Things* has yet to be released in Tasmania, the announcement has not been made.

(4) The Screen Tasmania website was completely replaced on or about 26 August 2020. This was a long-term project, which was entirely unrelated to the documentary in question. Screen Tasmania made the decision to include only projects funded in the current financial year and the immediately preceding financial year. This decision was taken to cut down on the amount of information available on the website, which was unwieldy in the old website format.

(5) The Government is aware of the subject matter of *Wild Things*. While Screen Tasmania has viewed cuts of the film, no-one from the Government viewed the final version of the film prior to its release on 27 August. This is standard industry practice. Neither the Government nor Screen Tasmania has the right to distribute or exhibit the film. To do so would be a breach of copyright, potentially exposing the Government to legal action. The distributor of the potential film is the sole licensee to distribute and exhibit the film.

(6) I understand that the film is a 'fly on the wall' documentary, meaning it is not narrated, and does not provide any commentary which tracks and provides vision of 12 months of environmental protest rallies and activities following the Adani blockade, the schoolchildren organisers of the School Strike 4 Climate action and the takayna/Tarkine protesters.

(7) No, the funding agreement does not include the ability for the Government to approve the documentary and to be absolutely clear about it the independent expert peer process required under Cultural and Creative Industries Act 2017 is at arm's length from the minister. Funding is provided prior to the documentary being made.

The funding provided through Screen Tasmania's production investment program, as recommended by the independent expert peer panel, is largely based on economic outcomes and stimulus. In other words, projects are recommended for funding to leverage investment from outside Tasmania for the benefit of Tasmanian filmmakers, crews, creatives and actors.

(8) No.

(9) No. The identity of private donors is not material in considering funding support by Screen Tasmania.

COVID-19 - Quarantine Exemptions

Mr WILLIE QUESTION TO LEADER OF THE GOVERNMENT IN THE LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.41 p.m.]

(1) What is the total number of COVID-19 quarantine exemptions granted at the border as of 20 August 2020?

(2) What is the breakdown of the occupations of people granted exemptions to COVID-19 quarantine requirements at the border as of 20 August 2020?

ANSWER

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

(1) Since the good to go (G2G PASS) system was implemented, 286 specialists, critical skills essential workers, have been provided quarantine exemptions as at 20 August 2020.

(2) The breakdown of occupations of the 286 workers granted exemption is: managers and administrators, 69; professionals, 52; associate professionals, 11; tradespersons and related workers, 140; intermediate clerical sales and service workers, 7; and intermediate production and transport workers, 7.

Community Basketball - Continued Government Funding

Mr WILLIE QUESTION TO MINISTER FOR SPORT AND RECREATION, Ms HOWLETT

[2.42 p.m.]

It is my understanding that the $350 000 community basketball grant has one year left to go and that it is allocated to the NBL-run clubs - that is the Hobart Chargers, the Tornadoes and the Thunder in the north-west.

Is it the Government's intention to continue that arrangement or is it the Government's intention to hand that funding to the NBL side that will enter the national competition next year?

ANSWER

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

It is actually the same funding. The Tasmanian Government has provided funding of $250 000 per year in 2018-19 and 2019-20 to Basketball Tasmania to enable the state's three NBL-run clubs to deliver school basketball clinics throughout Tasmania, and will provide the same level of funding in 2020-21.

The Tasmanian Government has also provided $60 000 funding to Basketball Tasmania through the Communities, Sport and Recreation State Grants program in support of participation activities and coach and official development initiatives.

During the 2018 state election, the Tasmanian Government also committed $10 million towards a new indoor multi-sports facility in Glenorchy, which will cater for a wide range of sports, including basketball.

Community Basketball - Continued Government Funding

Mr WILLIE QUESTION TO MINISTER FOR SPORT AND RECREATION, Ms HOWLETT

Mr President, I will repeat the question for the Minister for Sport and Recreation. My question was: is it the Government's intention to continue that arrangement or is it the Government's intention to hand that funding to the incoming NBL side to run sports basketball programs?

ANSWER

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

I thank the member. Any future funding will be a follow-up to budget submissions. But, as I have mentioned before, the funding is the same in the 2020-21 period. Any additional funding will be reviewed in the budget submissions.

CONDOLENCE MOTION

Anthony William Fletcher MLC

[2.45 p.m.]

Ms FORREST (Murchison) (by leave) - Mr President, I move -

> That this Council expresses its profound regret at the death, on 27 August 2020, of Anthony William Fletcher, who served on the Legislative Council as a member from 1981, in the electorate known as Russell, and from 1999 to 2005 in the electorate of Murchison, and served as Leader for the Government in the Legislative Council from 1986 to 1989, and again from 1996 to 1998, and places on record sincere appreciation for his great service to this state.
>
> Further, the Council humbly and respectfully tenders to his family its deepest sympathy in their bereavement.

Mr President, in speaking to this motion, I acknowledge the significant contribution of Anthony William Fletcher, known as Tony, and the contribution he has made to the state of Tasmania, both inside this parliament and in the community.

Anthony William Fletcher was born on 27 October 1934 to Harry Lisle and Sylvia Maud Fletcher. He was born in Huonville. His father, Harry, was a committed track athlete, rugby player and community-minded citizen. In 1941 he was elected to the Huon Council, where he served 37 years, at times as deputy warden and treasurer.

Tony himself played with Huonville Football Club in his late teens, where captain/coach Harold 'Nunky' Ayers took a liking to him and provided some sponsorship. The Fletcher family was too poor to provide for any ongoing education, so Nunky paid for Tony to attend St Virgil's

College for two years, where he was a capable student, but excellent in all things athletic, particularly football. He was recruited by the Hobart Football Club and played three seasons, from 1953 to 1955, during one year of which he played for St Virgil's College in the morning and for Hobart in the afternoon.

He met and fell in love with a Hobart girl, Margaret Mackey, as a 20-year-old, at a Hobart dance hall. During their courtship Tony used to use much ingenuity to ensure he could spend time getting to know her, even when he was allegedly confined to barracks. In 1955, they were married and enjoyed a love story that endured for over 65 years. Their first child, Chris, was born in Hobart in December 1955. The family moved to Burnie in 1956, where Tony took up a physical education teaching position and played football with the Burnie Football Club. With the Burnie Tigers, Tony established himself as a quality player in the competition over the 1956-57 seasons.

Keen to provide a better life for a growing family, Tony successfully applied for the position of captain and coach of the Smithton Magpies for the 1958 season. Tony and Margaret moved to Smithton in 1958, when Tony was appointed as senior playing coach of the Smithton Football Club, the Magpies, and physical education teacher at Smithton High School. In that year he successfully coached the Magpies to a premiership, the first of nine over the 12 years of coaching to follow. In this hectic period, Leanne, Scott, Tracy, Haydn, Denise and Jacqui were born, and physical education teaching at Smithton High gave way to selling insurance for AMP, then election to the Tasmanian Parliament as the member of the Legislative Council for Russell in 1981. He went on to serve the people of Murchison for four terms with distinction.

During these years, between 1958 and 1970, the Smithton Magpies not only won nine premierships under Tony's leadership, but Tony himself won the Circular Head senior best and fairest award on four occasions, an achievement he was immensely proud of, as was the club. On a number of occasions Tony was selected as the coach of the Circular Head Football Association representative teams, to play against the North West Football Union. He was also selected to play for the Union Firsts against South Melbourne, the only Circular Head player to do so. He was also one of the instigators of the Smithton Football Club joining the NWFU in 1979 as the Smithton Saints. They had to change their jumper at that point. This brought the whole community together at the time.

Tony was also awarded life membership of the Smithton Football Club. While Tony taught at Smithton High, he coached the under-17s team locally, and many of these players went on to play NWFU-, NTFA- and TFL-standard football.

In 1965, he took an under-17 side to Victoria, where they were successful and undefeated as Tasmanians.

Tony's manner and approach to coaching both younger and older players earned him great respect and admiration. His sporting achievements and interests also extended beyond football. He was a race caller for the Smithton racing club for some time, demonstrating his skills and talent as a communicator. He also managed the then-new Circular Head swimming pool and organised weekend swimming championships in Smithton, as well as organising swimmers to train with a leading coach in Hobart. Again, some of these swimmers and divers went on to feature in state titles. He also played basketball and water polo.

Tony was a true leader and mentor to many people in Circular Head. The boys he coached continued to meet regularly with Tony for many years. He was their teacher, their coach, their mentor, and, most importantly, their friend.

A story that was shared by a former student at Tony's funeral is worth repeating here. Dennis Cobbing informed us -

> Robert Falconer and I decided to try and look into the girls change rooms at the old Smithton pool. We were between the ages of 11 and 13. Robert was on my shoulders and that was as far as we got. The next thing, out of the blue, I got a boot up the bum. It was Fletch. He was the pool manager at the time and everyone knows he was a pretty good kick.
>
> We apologised to Mr Fletcher and he never told our parents. That was just him. All his life he was fair and just.
>
> He has gone now. We've lost our teacher, our mentor and most important, our mate.
>
> Till we meet again, old friend.

In the early 1970s, Tony left teaching to establish the AMP insurance agency in Smithton. He again succeeded and received several statewide awards.

Tony was first elected to the Legislative Council on 23 May 1981 in the seat of Russell, as it was then known, which took in the municipalities of Wynyard, Circular Head and King Island. He was one of Tasmania's longest serving MLCs, serving first Russell and then later Murchison for 24 years - the third consecutive person to hold the seat in that area for that length of time. A good sign for people who are there now.

He was re-elected unopposed in 1987 and 1993 - skinners, as we call them. He was later to reflect that in his 24 years in parliament, he only went to the polls twice, and one of those was to win by 51 votes in 1981.

His election in 1981 saw an end to the 48-year reign of the Fenton family in this seat. He narrowly defeated Malcolm Fenton, who was the nephew of retiring member and Legislative Council president, Charles Fenton. Charles had been a member for 24 years, as had his uncle, Arthur Fenton, before him.

The Legislative Council in 1981 comprised 19 members - three of whom were ALP members, and the rest independents. Kathleen Venn, the member for Hobart, was the only female in the House.

Following the reduction in the size of the state parliament in 1996, the seat of Russell was amalgamated with the west coast seat of Gordon. Tony then became the member for the newly named division of Murchison, and was successful against three others in contesting the seat to serve his final six-year term from 1999.

In his inaugural speech on 8 September 1981 as the new member for Russell, Tony noted that it had been 10 years since Russell had a voice on the Floor of the Legislative Council, as

his predecessor, Mr Fenton, had been the President of the House, and therefore had limited opportunity to speak on behalf of his electorate. In his speech he paid tribute to the people of Russell, saying -

> These areas are remote from the capital of Tasmania and from this seat of Government, but they are areas of tremendous wealth which contributes very much to the wealth of the State.
>
> It is not a highly industrialised area or one rich in minerals, but rather its industries are based on resources which we can reap and regenerate, keeping in close harmony with nature: beef, dairy, sheep, crop harvesting, vegetable production and processing, fishing and, of course, the matter under discussion here, the timber industry.

Remember, it did not include the west coast at this point -

> The people of the area of Russell - Circular Head, Wynyard and King Island - are the sons of the soil and they nurture nature to reproduce into perpetuity.

That is the end of the quote from his inaugural speech. Tony also recognised the importance of tourism and how the two could work together. He spoke of the tourism industry of the far north-west as being stunted because people travelling to the area had to return via the same route. He recognised there existed, and I quote from his speech -

> … a situation where, with cooperation between various departments, a tourist road could be developed to serve both the logging and timber industry and the tourist industry which would benefit the people of the far north-west as well.

He was talking about these things when he was first elected. He was still talking about them when I came in.

It is interesting how so many things stay fundamentally the same. Tony was well known in the upper House - I know other members will probably mention this - as the coach, reflecting on his background on the football field and his natural adaption to that approach in this place. When he was asked at his final ABC interview with Tim Cox on 5 May 2005, which of the debates stood out most in his memory, he answered -

> The debates of the 1980s, the Development versus Conservation debates, in the heat of the Gordon below Franklin and then the forest issues that have been longest running, most intense and most important debates for Tasmania.

He explained the balance always lies in the middle ground, and to the credit of Tasmania generally and to parliament, particularly, he believed we had found a balance which allowed development of our forests, rivers and waters without damage to our natural assets.

Tony also named the 1995 Aboriginal land hand-back as being one of the greatest achievements in his political career. In an interview at the time of his retirement, he said it had been a tense time, but he was pleased to have been able to secure the transfer, but expressed

disappointment a process had not been identified to continue with further transfers which he described as being a bit ad hoc when it came to parliament, instead of being approached in a logical way.

He was also proud of the outcome of the task force he chaired to look at the future of the Royal Derwent Hospital in Willow Court, which developed a program for improved care of people with mental illness and disability.

Gay law reform was a defining moment in the Legislative Council when members voted to support decriminalisation of homosexuality in Tasmania. This had been a contentious issue in the upper House and not something that Tony had initially supported. However, his skill as a negotiator and legislator ensured the reform passed in 1997. His speech on decriminalisation indicated his change of heart. Rodney Croome, in a letter to the editor on Tony's passing, shared a message to the next generation of LGBTIQ Tasmanians encouraging them not give up on what he called 'unfriendly politicians', and I will read a little of what Rodney wrote -

> LGBTIQ people have more allies than we think, even if we need to give them some time, space and encouragement, even if they are yet to realise it themselves.

Tony held the position of Leader for the Government from 1986 to 1989, having previously been deputy leader and again in 1996 and 1998, serving under the Gray, Groom and Rundle governments. Tony was an influential figure for much of his time in this place as he negotiated his way through some of Tasmania's most divisive issues and debates that helped shape us as a state. I am reliably informed there were times when he was tasked with getting a truly poor piece of legislation through the House, and he had a way of letting his views be known.

Our former colleague and president, Jim Wilkinson, tells a story of one such case where Tony's words in summing, up the debate went along the lines - 'Well, we are 10 goals down, a howling gale is blowing against us, and I am expected to win this game.' The bill was defeated, much to Tony's relief, I believe.

Although aligned to conservatives and having stood unsuccessfully as a state Liberal candidate previously, Tony served in the Legislative Council as an independent. He believed the electorate at the time had shown that given the choice between a party-endorsed candidate in the upper House and a quality independent, they would support the independent. During his time as an elected member he saw many changes. He explained in his final radio interview how he saw it. He said -

> Members of parliament are not elected for their intelligence. They are elected because they represent the community, and as the community has hard working, lazy, rich, poor, strong and weak in its members, to some degree that mix is also represented in the Parliament.

I am not sure which one I fit into, but I think there may be a few other categories he needed to include. He went on to say that the community of Tasmania has emerged considerably since the early 1990s and the people of Tasmania, who in the past have been loath to change, are now much more open to or accepting of change and this has been reflected in the parliament and particularly the Legislative Council.

Tony made an observation that the great strength of the Legislative Council is that we are independently and singularly responsible to our community, whereas in a multi-member electorate of the House of Assembly the constituents may not be quite sure who their representative is.

He said -

> In the Legislative Council it's a single member electorate and I am responsible to my constituency. They know that, and if they want to bite my backside, they've got the opportunity to do so.

He was concerned about the reduction in the number of parliamentarians in 1996 and he was concerned that it had resulted in a lack of critical mass from which to draw a leadership team. He suggested a better use of the talent that is available in the Legislative Council as a possible solution. He was unsure if a new look Tasmania was a change for the better.

We have seen that with ministers now in the upper House, which has been a positive change.

He said -

> It seems to me that the balance has shifted towards executive government, which isn't in the best interests of Tasmanian society.

He said that in an interview with the *Sunday Tasmanian,* and he added -

> We are best served by an open and transparent government held accountable by Parliament. Members need to be well respected and have the research capacity to match the Government's efforts.

He is so true on that -

Tony was the first member of the upper House to have a full-time assistant and a street-front office in Wynyard. I understand Tony was the test case for having this electorate office, something we now all take for granted. This proved - and was no surprise to Tony - to be of great value and benefit to his constituents.

When he decided not to contest the 2005 election, he stated that he was looking forward to the gypsy lifestyle that retirement would bring. He cited the usual suspects of spending time with family and friends, and gardening was high on his life of retirement priorities but also an interest in writing short stories.

The Honourable Don Wing, another former long-serving member and president, remembered Tony as a well-liked and respected competent leader for the government in the Legislative Council. He said Tony was a competent leader for the government, noting that his persuasive debating style was reminiscent of his technique as a successful football coach. Tony was down to earth, a wily negotiator, always accessible to members, and an entertaining raconteur.

It was a widely held view that he had been a member of the House of Assembly even though he had not as he was well equipped to be a successful minister of the Crown.

I spoke to my very first executive assistant, or electorate officer, who had worked for Tony for a number of years, for six years in that last term as his member for Murchison. She stayed on to assist with my transition to being the new member and Tony was very generous when he left. He left all the open constituent files that he was able to, ensuring that people he had started to work with to assist did not need to restart the process. That was a very generous thing to do.

Leanne Holland who was his EA - and also mine for a short period - stated that Tony was an excellent orator, could negotiate hard but had genuine compassion. She also recalled his Christian faith, noting his death notice had a statement about meeting his King.

Leanne recalled that she first encountered Tony when doing a term of teaching at Yolla school. He phoned her to ask if she would help run his campaign in 1999 and they organised a meeting and as they say the rest is history.

Leanne said -

> I came to know this wonderful man, Tony Fletcher, who I worked with for the best part of the next six years.
>
> Tony had given a lot of thought as to whether he would stand again in 1999 as he was 64 and would be 71 at the end of the term for the new seat of Murchison.

Leanne recalled that despite his long history in Circular Head, this was a different election. The divisions of Gordon (West Coast) and Russell were combined into the new-look Murchison so he took nothing for granted.

He needed to convince the people of the west coast that he was worthy to be the representative. He ran the campaign to win. He duly defeated the other candidates Sue Owen, Des Hiscutt and Michael Weldon to take the seat.

Mrs Hiscutt - I remember it well.

Ms FORREST - I think one of the candidates is the Leader's uncle. Tony had negotiated prior to that with then premier, Jim Bacon, to set up a dedicated office in Wynyard if he was re-elected. True to their agreement, Tony's office was the first dedicated Legislative Council regional office. I also understand it had been funded through DPAC, and it caused some issues with other MLCs at the time, as they thought he was getting a better deal. Others who were here at the time may have some recollection of that and be able to confirm or deny that matter.

Right from the start Tony kept his word to visit the west coast on a regular basis. The former member and late Peter Schultz had lived on the west coast and Tony wanted the people to know they had a voice through him. No matter how bad the weather, Tony kept his commitment and drove down, giving the people an opportunity to meet him in person. Leanne said she and Marg, Tony's wife, worried about the conditions in which he was driving, but he always made it back home.

Mr President, this is certainly something I have continued and can fully appreciate. A number of trips have been delayed because of snow, even the first time I had an all-wheel drive car, thinking I will get through this time, only to have a truck jackknife on the road and block the highway for several hours. There is no phone reception, so I had to turn around and come home. Tony would not have had a four-wheel drive at that time. Leanne also recalled Tony as being notorious for leaving behind his glasses and his wallet - and he even once left his passport on a flight. He should have had a man bag for all those things, was her view. Goodness knows how many pairs of glasses he lost. Some were recovered, many were not.

Even though Tony was fairly certain that term was to be his last in office, he was extremely generous with donations to service and sporting clubs, writing out cheques that were greatly appreciated by local organisations, right until he left the seat. I believe it is easy to see why Tony is held in such high regard and high esteem. No-one was too insignificant for Tony's attention. He was clearly a champion of the underdog and would advocate for many a constituent in Murchison.

Numerous issues crossed his desk that were technically nothing to do with government. I am sure we are all aware those things happen. But Tony often would use his financial background and worldly knowledge to help these people regardless. Tony gave every constituent issue his full attention. For example, in investigating a complaint of a resident being continually disturbed by noise from a factory in Wynyard, Leanne recalled that he parked outside the factory for several hours in the middle of the night to test it for himself. His detective work led him to believe there was a case to answer, which subsequently led to the Department of Environment doing decibel testing and efforts to reduce noise. That is taking your job seriously.

Leanne told me she learned a lot about dealing with people and issues from Tony. He was like a terrier dog with a bone, and would unearth as much information as possible to build a picture of what was going on, like sitting in your car at night listening to noise. Through Tony's actions and with his support, she learned to pick the phone up and talk to people to cut through to the chase. That was an era when people wrote snail-mail letters and the turnaround time for ministers could be a couple of months. It is remarkable that it is still the case now.

Tony was one of the - if not the - driving forces behind the 2004 bicentennial cattle drive re-enactment in Circular Head. Nothing was done by halves. He commissioned an historian to write the history of the cattle drive and sought a naming-rights sponsor, Greenhams, for the event. It was an overwhelming success and talked about for years in the region. People of the far north-west had 200 years of continual history in the Arthur-Pieman Conservation Area. Tony was a passionate advocate for people using this area not to be locked out of it and to be able to use this area, along with the Indigenous ancestors and descendants of those people as a shared special area.

I personally did not hear the story Tony would often tell, but I have heard this second-hand: when he first met his daughter's wealthy American in-laws, the father-in-law asked Tony what did he do to make money. Tony explained he was a member of parliament. The man said, 'Yes, but what do you do to make real money?'.

Tony's involvement and interest in Aboriginal history and Aboriginal land transfers convinced him that history is multifaceted and much of the history of ordinary people doing ordinary things is often untold. He had begun writing in order to share some of these stories

and hoped to have them published. He also took on a role with Gunns before the company's demise, during the challenging period of the proposed Tamar Valley pulp mill.

I am sure the members for Windermere and McIntyre will have their own stories to tell of their time in this place working with Tony. In November 2018 *The Advocate* newspaper reported a special reunion that had taken place featuring reflections of some of Tony's former students and mates. This is a quote from *The Advocate* -

> Harry Evans, Peter Edwards, James McCulloch, Dennis Cobbing and Rod Burgess were class- and teammates under Mr Fletcher in the 1960s, and were proud to call him a friend.
>
> 'He was the best coach ever,' Mr Evans said.
>
> 'This is the remnants of the best high school side Tasmania ever produced! It's not even a question,' Mr Cobbing said through laughter, but also quite seriously.
>
> 'If Fletcher doesn't want to brag, we'll brag for him.'
>
> The group said Mr Fletcher coached the Smithton side for 13 years and won nine premierships, following his arrival in the town in 1958.
>
> 'All these guys are family to me,' Mr Fletcher said.
>
> 'The family goes back 60 years. It's not often you would find a group of students still maintaining contact with their former teacher 60 years later. I think that's quite unique.'
>
> He reminisced particularly fondly on a tour of Victorian high schools he organised with their team, during which they won two of three games they played against mainland schools.
>
> 'I arranged through political influence to take them to Melbourne and they were billeted out with students over there,' he said.
>
> Mr Fletcher chaperoned the team of 34 students with just one other teacher, for the two week tour.
>
> 'It was a big thing in the 1960s! To charter a flight out of Smithton,' Mr Burgess chimed in.

Mr President, Tony departed the Legislative Council on 7 May 2005, and I am honoured to have continued to serve the people of Murchison since.

Tony is survived by his wife of 65 years, Margaret; father and father-in-law to Chris and Nicki Fletcher; Leanne and Bruce Poole; Scott and Alison Fletcher; Haydn Fletcher, Ross and Anna Murphy; Denise Fletcher and Saeed Behjat, and Jacqueline and Jonathan Rees; and his 22 grandchildren and 2 great-grandchildren and great-grandchildren on the way who will not get to experience the physical presence of their much-loved great-grandfather.

Sadly, Tracy Fletcher passed away in February this year.

Mr President, I offer my sincere condolences to the family of this loyal, wise, determined, hardworking man who has been a great coach to so many - a man who has served his state, his constituents and his loved ones with his whole heart. As Tony stated in 1997 -

> The rules of sport are also the rules of life. I believe that fundamentally - like having goals and playing to win, doing your best, the spirit to get back up into the game again - I see a great linkage between the two.

Those words are in the Order of Service for his funeral because that says a lot about Tony, the man.

Vale, Tony Fletcher. Thank you for your dedication to and work for Tasmania and Tasmanians. May you rest in peace.

Members - Hear, hear.

[3.12 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I rise to formally place on record in the *Hansard* of this Council the Government's appreciation of the contribution made by Anthony William Fletcher, not only to the north-west community which he so ably represented for many years, but also to the parliament and to Tasmania generally.

I did not really know Tony Fletcher personally, but I know a lot of people who did, and you only have to look as far as some of the tributes paid to Tony, or Fletch as he was often called, on his passing, to gain an understanding of the kind of man he was, and the extent of his contribution to influence - terms like 'a political titan', 'man of the people', 'a fierce advocate', 'one of Nature's true gentlemen', 'a dominating force in Tasmania's parliamentary history'. All of these phrases and many others have been used to describe Tony Fletcher, and the number of people attending his funeral last week, either in person or via live-streaming, bear testimony to the esteem and high regard in which he was held by so many.

Anthony William Fletcher was an independent member in this Council from 1981 to 2005, representing the seat of first Russell, and then Murchison when the electorate name was changed in 1991. The current member for Murchison, who succeeded Tony, has given details of many of the positions and roles he played in the functioning of the Council, and I do not propose to repeat those now.

It was as Leader of the Government in the Legislative Council that he perhaps played his significant role. Interestingly, he was Leader for the Government, not of the Government as the position is now titled, reflecting the fact that Tony was not a member of the Liberal Party.

He could best be described as a conservative independent. His motivations were invariably to facilitate the passage of good legislation for the benefit of Tasmania and Tasmanians, and while a passionate and fierce advocate for the Government's policy and legislative program, he was always prepared to listen to reasoned and considered argument.

Tony was leader during Robin Gray's premiership from 1986 to 1989, and under Tony Rundle as premier from 1996 to 1998. During that time, he successfully steered through numerous Government legislative initiatives of real and lasting significance, including reforms related to gun laws, Aboriginal reconciliation, and decriminalisation of homosexuality, to name but a few. Among the many paying tribute to Tony on his passing was gay rights campaigner, Rodney Croome, who stated -

> … Tony Fletcher helped ensure gay men were no longer criminals.
>
> The reform is a testament to his ability as a legislator and negotiator.
>
> His speech on decriminalisation was quite moving.

Tony approached his role as a legislator on all matters with passion, intelligence, and commitment. He was a formidable force on the Floor of this Chamber. He faced four elections as an MLC and was returned in all of them. Indeed, he was unopposed, with 'skinners' in two of those elections, a clear reflection of the respect he commanded in the community and the appreciation people had for his efforts on their behalf. He truly was a member of parliament with the wholehearted support, respect and admiration of his local community, and well deserved it was too.

It was not just as an MP that Tony Fletcher made his mark. Prior to his entry to politics Tony was regarded as a legend in the Circular Head sporting community. As a former PE teacher, Tony had a significant role in fostering the interests of many young people in sport and this is something he pursued his entire life. He was a footballer of considerable note, having won many best and fairest awards for clubs he played with, such as Burnie and Smithton. But where he truly excelled was as a coach. He guided Smithton to nine premierships during the 13 seasons in charge.

It was not just football that Tony embraced. He promoted sport of all sorts, be it football, swimming or whatever, as a mechanism to teach healthy habits and life skills to young people. Tony Fletcher approached his sport as he approached life.

I want to read the quote from Tony that was included by his family in the memorial program of his funeral, and it said -

> The rules of sport are also the rules of life. I believe that fundamentally, like having goals and playing to win, doing your best, the spirit to get knocked down and get back up again into the game. I see a great linkage between the two.

That was worth quoting twice. This was a philosophy that guided Tony throughout his life and that as a mentor he passed on to many of his former students. As Dennis Cobbing, a former champion swimmer, who Fletch had encouraged to pursue and develop his talents, said to *The Advocate* -

> … he was much more than a coach, he was a leader and an icon of Circular Head.

He had a huge effect on a lot of people's personal lives, not just sport and he helped a lot of people out which not too many others know about.

Finally, I want to make reference to Tony Fletcher as a family man. Tony's family members were the most important thing in his life. He absolutely adored his grandkids and they adored him. On behalf of the Government, I pass on our sincere condolences to his wife of 65 years, Marg, to his children and extended family.

Vale Tony Fletcher, parliamentarian, sportsman, mentor, community leader and family man.

[3.18 p.m.]

Ms RATTRAY (McIntyre) - Mr President, so much has already been said, but I rise to support this condolence motion and particularly thank the member for Murchison for bringing it forward.

I arrived in the parliament in 2004 and Tony had been a member of the Legislative Council for 23 years. I received some reliable advice from a former member at the time to watch and learn from a member who had 23 years experience. I was appointed to Government Administration Committee A, and the chair of that committee was Tony Fletcher, the member for Murchison. I did a budget session and a GBE scrutiny with Tony as the chair and I recall that for that first GBE scrutiny process there was to be a trip to Port Arthur. We were doing a site visit and I took the opportunity to travel with Tony. He invited me to come along and I did not know where Port Arthur was. Well, I knew where it was, but I did not know how to get there coming from the north of the state and I had not done much visiting.

Ms Forrest - A girl from the north.

Ms RATTRAY - A girl from the country, very much so.

I recall that valuable time with Tony and the fact he was so happy to share his extensive knowledge, experience and advice 'on your role', as he put it, 'in the parliament and the importance of representing the interests of the people in your electorate'.

I recall him telling me on that day - not that I have done this - but he told me he used to go to various nursing homes on a Sunday afternoon and visit his constituents. Now that is dedication to the job; I heard the member for Murchison talk about him sitting outside a factory listening to noise, but he would go to a nursing home on a Sunday afternoon and visit constituents. For some of those constituents possibly that was the only visit they had in a week. I thought at the time, 'That is wonderful dedication to your job.'.

With Tony already announcing in 2004 he would retire at the next election which was May 2005, I listened carefully and watched intently as the member for Murchison rose from his seat, in the corner where the member for Nelson is now sitting, and proceeded to hold the government of the day to account and represent the people of Murchison to the highest standard in a professional, no-nonsense, dedicated and very persuasive manner when he was looking to get support from other members in the Chamber.

He also had a side to him I saw outside of the parliament. I remember very well that Tony and Paul Harriss, former member for Huon, arranged a trip to Melaleuca. Obviously,

you needed a light plane to get there. From memory we flew out of Cambridge and the weather was perfect on the day we flew out, but coming home it was not so perfect.

The flight home was horrific and we were delayed by hours and hours. Through that delay we went to spend some time with Deny King's granddaughter at his hut. Fletch arranged for us to go in and meet Deny King's granddaughter and spend some time with her. I think he thought it might settle me down if I had something else to think of other than the weather and how we were ever going to get out of this place.

It was just the best experience to be able to look around at his things, talk about Deny King's life and do that with my colleagues. Another really interesting part of that trip was we went across the boardwalk from where the cabins are to a lookout that seemed like it was miles and miles away.

I remember the member for Mersey had one of those green Woolies shopping bags with her; there is a photo somewhere that Fletch provided to us afterwards of the member for Mersey walking along this track with her green Woolies or Rolf Vos, or whatever it would have been at the time, shopping bag. It was just a classic.

We all stayed in the hut together. We played cards, talked and laughed. It was a wonderful experience for a very new member in this place to be invited to spend time with a person who had been around as a member of parliament and the Legislative Council for 23 years. Jim Wilkinson was there with Paul Harriss and the member for Mersey - and I am just looking, no, I do not think the member for Windermere joined us at that time. I recall what a privilege it was, and I am forever very grateful because I actually felt part of the Legislative Council family more so after that experience because we had a different experience other than just being in the Chamber and working on behalf of our constituents. For that I am very grateful, and forever thank Fletch and Paul for arranging that.

So much has been said. I attended the wonderful service to honour Tony Fletcher last week at Burnie. I felt very proud, as you did. The member for Murchison and member for Windermere were also there. It was a real celebration of a wonderful life and wonderful career. It is something to aspire to, really, the esteem with which he is held within his community, but the love of his family was just absolutely beautiful. It was very heartfelt.

To Marg and Tony's family and friends, on behalf of the electorate that I represent, both past and present - particularly the Colin Rattray family: my dad worked for 12 years with Fletch and came home with plenty of stories about him - 'Did not get that one today, Fletch got up out of the corner and completely blew my argument out of the water', just like Jim Wilkinson did to me a couple of times, pulled up that railway line because of it - and particularly myself, as a former colleague, please accept our sincere condolences as you all go about your daily lives without the physical presence of Tony, knowing that his love and wise words and advice will always stay with you.

Rest in peace, Tony.

[3.26 p.m.]

Mr DEAN (Windermere) - Mr President, I thank the member for Murchison for bringing this motion forward. It is certainly a very important motion. Those who served with Tony

would know that very well. I say Tony - he was known as Fletch to me, and that is what I refer to him as. I just want to quote our previous president, Mr Wilkinson, who said in the *Mercury* -

> Tony Fletcher was a man of great wisdom and brought to all debates a level of thought and consideration rarely seen in our parliament.
>
> He was an 'old school' conservative independent who fought for his constituents and never lost sight of the struggles his community faced, while balancing this with the best interests of Tasmania.
>
> He showed me and many of my contemporaries in the chamber how to act, how to be a good member and most of all how to represent your electorate.

Mr President, I was extremely saddened to hear of Fletch's passing. He was a great man and loved and admired by many. In fact, it is true to say I have not really heard of anything other than praise for this man. However, having said that, I recall some challenging times that have been made of Fletch in this place, the Legislative Council, and later, as he roamed the corridors during the forestry and pulp mill debate. I think members here at that time would remember that well.

It was in this place that I came to know Fletch and understand more about him. I knew of him, which came about within football circles and during my umpiring days, but not to talk to or associate with. It was clear from what I was hearing that he was a great sportsman, a brilliant footballer. This also included his coaching period as well. We heard about many of his sporting achievements at the funeral service. They just went on and on and on. His achievements in that area were just amazing. It was said he was the type of person who would go through a brick wall as a footballer. We were told of times when he had a split lip. He took on a player on the ground he probably should not have taken on and ended up with a split lip. Then later, still playing with it, patched up and spitting blood all over the place.

Ms Forrest - Back in the day before the blood rule.

Mr DEAN - It must have been. Coaching his team to win on that occasion, he instilled so much into them that they got out and won that game for him.

Fletch was a mentor of mine. To quote Greg Hall -

> If Fletch mentored the vicar then either he did not do a great job or he had difficult material to work with.

I think Fletch would have seen me as difficult but he persevered with me and I am indebted to him for this.

I had a great admiration for Fletch and I was not prepared for the state to lose his knowledge and expertise on his retirement from politics. I continued to work with him and he provided much assistance to me. Some members would well know he prepared and provided much of my material for me shortly after he left this place. I do not mind accepting and admitting to that.

Particularly on the budget, he provided me with a lot of support in relation to responses to the budget, and during those difficult times dealing with the forestry issues and debates and again the pulp mill, he supported me on many occasions.

His work was methodically prepared and well researched, and he had this ability to put in writing an interesting and factual speech at very short notice. The member for McIntyre would be well and truly aware of that.

I will relate a story in a moment that identifies just how good he was at this. One of the first parliamentary issues Tony and I became involved in was the fox saga. None here would remember it other than maybe the member for McIntyre. Tony had a similar hunger to mine about bringing truth and common sense to this nonsense. He was measured, factual and careful with the story, and in those very early days Tony could see through it and he spoke to me about this. He could see through it for what it was. As he said, 'One big hoax' and he made statements in here to that effect. He was very strong on his statements here to that effect.

Tony was the leader for the government for the Liberals here at one time. I am not sure if the member for Murchison mentioned that or not. While he was a fierce independent, he agreed to take the role on, on his terms.

I was not here at the time but those who were - and I think Mark Baily behind me, for instance, was here and witnessed some of the issues that occurred. I was told about the time he refused to move the second reading of a government bill because he did not agree with it. He did not want it. He did not support it and he stood aside on it. I think this sort of action speaks much about the calibre of the man Fletch. He would not compromise his position and standing for anybody or anything.

This is a part of what was said of his political career and I just want to quote on a couple of issues from a document I have been provided -

> Tony Fletcher was a gifted orator and truly a dominant force of Tasmania's parliamentary history …

and he often said our greatest asset is our people. He, in fact, was an amazing asset to the people. He loved to represent in his electorate but none more so than as a patriarch of a wonderful family -

> It was universally acknowledged that Tony had no peer as a parliamentary contributor …

where the emotional toughness developed as an outstanding football leader, most likely helped mould this bloke with a tough outer crust but an underlying big beautiful heart into shape.

Tasmania has lost not only a political giant but one who was deeply loved, far and wide.

It was Fletch who said in this place, 'No bill should get through here without somebody speaking on it'. The member for McIntyre would remember that. He would say that time and time again, and he would jump up. If he thought a bill was getting through without something being said on it, he would jump up.

Some may recall the infamous governor we had here, Richard Butler. It is an interesting story this one - well, things were not going all that well for us and this man, Richard Butler. Those who remember him know he engaged in some matters that caused embarrassment to the state, and he was to be either sacked or his engagement withdrawn. I am not quite sure what happened at the time, but there was a huge amount of publicity around this matter.

The Governor's salary was being discussed and in amongst other things Tony added, Fletch added, 'It was only when a bum was appointed to the position of Governor and disgraced Tasmania … that we get fired up.' I think it was in your time, member for McIntyre.

Ms Rattray - I remember it well.

Mr DEAN - Anyway, I am not quite sure whether I should have used that word. Labor member, Lin Thorp, took exception to the word, 'bum', and there followed interjections and some toing and froing. He was asked to withdraw it by the member, Lin Thorp. Mr President, Don Wing, had to become involved. It was quite an interesting time. I do not think our Clerks were here. Our current Clerk might have been here in the other position and would remember this.

Ms Rattray - Mr Pearce was here at the time as Deputy Clerk.

Mr DEAN - Yes, he was, Deputy Clerk at the time. Suffice it to say this went on for a while - then Fletch withdrew the word, bum, but only after he had been told he would be removed from the Chamber. He rephrased it so quickly in such a way that it meant exactly the same, but was much stronger than the word, bum. It was just amazing. He came back with it so quickly. I was flabbergasted, and I think other members were as well.

Mr Gaffney - What was the word he came back with?

Mr DEAN - I would need to get back and have a look at *Hansard*. But he came back very quickly.

Mr Willie - You were building us up to the punchline and you do not have it.

Mr DEAN - No, I was not going to refer to the punchline; I just wanted to tell you how quick was the wit of this man to react in the way he did.

Nothing really frustrated him or fazed him; he was that type of guy. He had that ability to respond - as I said, he was measured, well researched and had the evidence to support his position. Another quick story I put on the record occurred in the President's Room. Some people have heard Greg Hall talk about this from time to time. I had been here for a few days or weeks, I am not sure how long. Anne, my wife, was with me for the first time in this building, at the President's welcome function. Fletch went up to - I do not know why he would do this - he went up to Greg Hall and asked him for my wife's name. Of course, Greg Hall could not help himself, sincerely convincing Tony Fletcher, or Fletch, that my wife's name was Jill.

Fletch walks up to Anne, I am there with her; he puts his hand out and says, 'Hello Jill, how are you? Welcome to the Parliament.' Anne looked at him and said something like, 'No, it is Anne.' Fletch looked at her and said, 'It is Jill, isn't it?' There was toing and froing about

the name. Fletch then walked off, went back across to Greg Hall and there were words exchanged. Fletch got stuck about Greg Hall for misleading him and causing him embarrassment. He was really concerned. He was concerned enough about it that night on my way home - it almost ended in a divorce really because my wife was wondering about who this Jill character was.

The very next day Fletch came to me and asked me, 'How did it go? Was I all right?' I jokingly said to him, 'Well, Fletch, to that effect it was.' He was so upset about it and so apologetic about it. That was the type of man that he was.

Ms Forrest - How did Greg Hall finish up?

Mr DEAN - I am not sure. Our well-remembered previous member for McIntyre, Greg Hall has asked I pass on his sincere condolences to Tony's family here, and Margie - you might recall Fletch used to always refer to his wife as Margie - and family. Greg served for several years with Tony in this place. I will quote what Greg wants me to pass on here -

> During my time in the Legislative Council, Tony Fletcher was the most savvy and influential independent member of the House. He was a long-serving member and his depth of corporate knowledge was quite amazing. He had the capacity to get on his feet and speak with great authority without any fluff and bubble on virtually any matter. By the same token, his advice was always, 'If you have not got anything of substance to add to the debate then stay seated and shut up. You will not get re-elected by dribbling on interminably, simply to get yourself recorded on *Hansard*. It is just not bedtime reading for Tasmanians', he would say.

Tony was never shy in holding the government of the day to account. In fact, when he was leader, he used to drive Michael Aird to distraction, and I can remember this. 'That bloody Fletcher', Airdy would remark.

By the same token, Fletcher was always very measured and fair with his contributions and if he got a win in the House, he acknowledged it humbly; there was never any overt hubris or narcissistic behaviour from Tony Fletcher. It was not in his DNA. He was truly a man of the people and a great contributor to Tasmania.

Fletch, indeed, was a strong leader. He was a person others wanted to follow and we heard much about those whose successes came about because of Fletcher's leadership and that came out at the service - we all heard of that. People were absolutely inspired by his capacity and ability to lead, to work with people, and he had a great thing about trying to get to people who needed support. He could identify people who needed assistance and who could make their way if they were given some assistance, and he had the capacity and the ability to do that.

I pass my sincere condolences on to Margie and family. I know just how much they will be missing Fletch, how upset and emotional they will be at this time. I have the greatest of respect for Tony Fletcher. The north-west coast and, in fact, Tasmania made progress through the untiring energy and contributions from him as a teacher, as a sportsman, as a politician and in the many other positions he occupied.

He was indeed a great man.

Rest in peace, Fletch. We will miss you.

[3.42 p.m.]

Mr PRESIDENT - Honourable members, I thank you for your contributions. I thank the member for Murchison for moving the motion. Although I did not work with Tony - he had left long before I arrived in this place - the first time I had experienced Tony was at the Royal Derwent Hospital community facilitation, which was a pretty wild affair. I was very impressed by the way he handled the crowd in a no-nonsense, straight-up, very stern manner. What started out as a rowdy meeting ended very well controlled, and I was blown away by the way he could do that.

The other time was during the TFA bill. I got some good coaching, I suppose - to use the member for Windermere's words - from Fletch, and I was very thankful we were singing from the same hymn sheet. I do not think I would have liked to have gone up against him with an opposing view, but he was very good and convinced in his beliefs.

I would also like to mention what a tremendous send-off it was at the Burnie Town Hall, for those things can often be challenging, but it was a very warm and wonderfully conducted service for Tony.

In memory of Tony and as a sign of respect to his family I will ask honourable members, please to stand for a minute's silence.

[3.45 p.m.]

Ms FORREST (Murchison) - Mr President, I move -

> That a copy of the foregoing resolution be forwarded to the family of the late Anthony William Fletcher.

Motion agreed to.

LAND USE PLANNING AND APPROVALS AMENDMENT (MAJOR PROJECTS) BILL 2020 (No. 26)

In Committee

Resumed from above.

Proposed new section 60M -
When project is eligible to be declared to be major project

Mrs HISCUTT - Madam Chair, I was answering a question -

Ms Webb - Madam Chair, I think I was on my feet when we broke?

Madam CHAIR - Yes.

Ms WEBB - I will finish because I was making a comment following the member for Windermere's comments. At the head of my proposed amendment are two questions that it

would be interesting to have your reflection on ahead of that and following the member for Windermere's questions.

Can the Leader provide us with the rationale for why proposed new section 60M(1)(c) has that additional detail provided within the legislation but not for (a) or (b)? Is the rationale that it would materially affect the process outlined in the bill or the integrity of that process if proposed new section 60M(2) was deleted altogether?

Mrs HISCUTT - Madam Chair, proposed new section 60M sets out three criteria. Two of these are about impacts in strategic importance to a region. There are matters that will require judgment and consideration of the specific context of the project. The third criteria is more measurable - it is whether a project is within more than one council area, whether it is seeking more than two permits, and whether it is a technically complex proposal. These things are easier to specify in the legislation, while the impact issues are contextual and relative. That is why determination guidelines are required from the commission. The commission will set out the methodology and issues required to unpack the criteria, so they can be applied to any project. Note it is important the first criterion has combined impacts and contributions to the region as one criterion - unlike the PORS criteria, which had these separate - which means it is easier to achieve two criteria under PORS. If the bill specifies the detail of these things, there is the prospect that some proposals will be excluded or perhaps unwittingly included because of a detailed description that might be relevant to one council or region, but not another.

A large hotel development in Hobart is not unusual or particularly significant, but the same proposal in Bicheno would be very significant and have completely different regional impacts.

A major bridge development in southern Tasmania might be strategic because of its links to the national highway, but if located elsewhere, might not be strategic at all.

It is worth remembering that the TPC mentioned at the briefing about being too prescriptive and how that makes its work more difficult. If the legislation specified what those criteria mean in more detail, it would limit the commission's ability to put the flesh to the bones through the guidelines.

Those guidelines might, for example, stretch to several pages of guidelines. The TCP guidelines for preparing local provisions schedules stretch to 51 pages, despite LUPAA setting out separate requirements for local provisions schedules - LPSs. I have here an example of what those guidelines could entail, which has 51 pages.

Ms Webb - It could be relevant, just to save some time, if I could ask for clarification or make a comment?

Madam CHAIR - On that point; otherwise you need to take another call.

Ms Webb - It is. My question did not require an argument for why (a) and (b) should be in here. I am not asking for it. I was asking why (c) is in there, and not as (a) and (b) are, in the determination guidelines. Just to clarify, because I do not need an explanation.

Mrs HISCUTT - It is basically because the third one is measurable, so it requires a judgment and consideration of the specific context of the project. The third criterion is more

measurable, whether a project is within one or more councils, as I went through before. It is because (c) is more measurable. The guidelines can be set, as I said here, in an example of guidelines for the other one. There are up to 51 pages there.

Madam CHAIR - Can the honourable Leader describe what those guidelines are for?

Mrs HISCUTT - The guidelines are firstly for local provision schedule zone and code application. The guidelines were issued by the Tasmanian Planning Commission under section 8A of LUPAA, with the approval of the ministers for Planning and Local Government. It is an example of what the others would do.

Ms WEBB - To clarify and pull that apart a little bit more - I accept what you are saying about the fact that (a) and (b) are broader and have less measurable detail than (c), but my question was: Why have (c) further elucidated in the legislation itself? Why not leave it as (c), and have the detail provided in the determination guidelines along with the details for (a) and (b)? I accept from what you are describing that it is highly likely that if we did that in the determination guidelines, the bits for (a) and (b) would be much lengthier and more extensive than for (c). What we would have is further details for each of those - (a), (b) and (c) - all located within one spot, the determination guidelines, and nothing having to be put here unnecessarily as extra detail in the legislation.

The second question I asked was - and it is pertinent to this, you are right, (c) is more measurable, but even here in (2), where we go into more detail, we do not exhaustively measure it. This is not an exclusive list here necessarily, from what I gather, and could well be more comprehensive and with good detail in the determination guidelines, without having to be constrained by the legislative forms of putting it here.

I wondered in that second question, that if we were to contemplate if proposed subsection (2) was not there at all, would there be any material detrimental impact to the legislation or to the ultimate process, knowing that, like (a) and (b), it would be covered in the determination guidelines? More succinctly likely from what you are describing, but it would be there.

Madam CHAIR - Before you sit down, that is your second call. You have one call left to move the amendment. I am reminding you so you are aware.

Mrs HISCUTT - Hopefully this might help a little bit. Proposed new section 60M(2)(b) is included in the bill because the notion of wider public interest or benefit is fundamental to the scope of the major projects process that seeks to introduce considerations of a community that is broader than just the local municipal area.

Without proposed new section 60M(2)(b), it would be possible for a minister to rely on proposed new section 60M(1)(c) to declare a project if that project only has significant scale and complexity in the local context of a single municipal area. This process is not intended to assess these local projects. Proposed new section 60M(2)(b) is fundamental to making that clear.

Many important environmental campaigns have been waged on the basis of state, national and global interest. If local values are all that is considered, many key infrastructure projects would not be approved because they are for the benefit of those who live elsewhere. The amendment has the effect of ignoring these broader interests of those who seek to benefit

from a major project, who would broaden the scope of the potential eligible projects to enable smaller, more standard proposals to be considered.

Ms Webb - I think your referencing amendment has not been moved yet.

Mrs HISCUTT - This is what you needed to know; this is what you are asking, though. This is a point which many submissions on the bill protested about, claiming the process is open to just about any project and calling for tougher eligibility criteria. The revised proposed new section 60M(2)(b) in this bill is a direct response to the concerns that have been raised and it clarifies the Government's intention in this process, which is to assess complex regional projects, not local projects.

Mr DEAN - Point of advice, Madam Chair, if I take my third call on this one, will I then have calls on the amendment when it is moved?

Madam CHAIR - Yes, you have three calls on the amendment. Yes, I did say that earlier, but it is fine to clarify.

Mr DEAN - Thank you for that advice. I hear what is going on, and I do not want to harp on this point that the member for Nelson has raised. We are talking about 'more measurable'. I am not quite sure how you define more measurable when something is measurable. Something is either measurable or it is not. I am not quite sure where we get more measurable coming from. I would contest that position.

I would think that if a project is of strategic importance to a region, it would certainly be measurable - just as measurable as a project that is of significant scale and complexity. Say, for example, that the matter currently being talked about is a second Tamar River bridge near Alanvale. Looking at this, one would be able to measure that and it would probably fit into a project, into this bill perhaps. You would be able to measure the strategic importance to a region of that bridge. You could easily measure it, with traffic travelling across there and accesses in and out of the city, in the same way you would be able to measure it against the significant scale and complexity. I just contest the position that one thing is more measurable than the other. It is either measurable or it is not.

Mrs HISCUTT - The things the member is talking about are where you can make a judgment, whereas the measurables are the number of municipal areas, whether two or more projects are related and the technical requirements of the project. They are measurable.

First amendment -

Ms WEBB - Madam Chair, I move that proposed new section 60M(2)(b) be amended by -

Leave out the proposed paragraph.

This is the first amendment I have moved on this bill and I have a number of them. I hope that as we consider all the amendments, we can continue the intent of this bill by taking the politics out of planning and consider them all in good faith and with an open mind to improving the bill and its robustness, but also improving public confidence.

My proposed amendment is about removing ambiguity, ensuring fidelity of concept and providing confidence. Subsection (2), as we have been discussing, provides detail about eligibility criteria relating to proposed new section 60M1(c) above it. We have discussed the fact that (c) has this detail added and the others do not. I do not believe the case has been well made that it needs to be and this amendment to some extent challenges that.

The term 'significant scale and complexity' is relatively well understood in a general sense. I think it would be relatively well dealt with in terms of detail in the determination guidelines to such an extent we do not need further elucidation here.

If we did, the things that are in proposed new section 60M(2)(a)(i) and (ii), which is about number of municipal areas and needing two or more project-related permits and the technical requirements - there are three there - they all fairly straightforwardly describe things we would all readily understand to be about scale or complexity. They are relatively consistent with the concept of scale and complexity.

What has just been explained to us by the Leader is that (b) goes on to provide more detail here with the intent that it extends to some form of public interest test. That is almost what I heard her describe, and if that is not the case, perhaps she will clarify for me.

I note we are not trying to capture everything in the subsection that might describe scale and complexity. No doubt there will be more detail in the determination guidelines. I question whether we need to have this element here.

Proposed new section 60M(2)(b) says -

> whether the activities that are proposed to be carried out on the land after the construction phase of the project is completed are of interest to, or for the benefit of, a wider sector of the public than resides in the municipal area, or municipal areas, in which the project is to be situated

This is an unnecessary expansion of the scope of how we would think about scale and complexity. I do not think the level of interest in the community in the areas affected are a measure of either scale or complexity. I think they are not insignificant. They certainly should not be disregarded. They should be considered in this process, but I do not think they belong in something that is linked to the concept of scale and complexity. It simply does not fit.

Public interest could be brought into this, though, quite explicitly to function in exactly the same way the Leader described just now as being the intention here under proposed new section 60M(2)(b). One of my proposed amendments actually does that. It is amendment 25 and it relates to inserting - there are two parts to it, but one of the parts actually inserts a public interest test into proposed new subsection 60ZZM(4)(e) and it creates (ea) and (eb) after that section.

Basically proposed new subsection 60ZZM(4) says

> The Panel may only grant under subsection (1) a major project permit in relation to a major project if it is satisfied that ..

The panel has to be satisfied about that to grant a permit, and there is a list there from (a) through to (g). I am suggest inserting subsection (ea) and (eb), and (eb) is a public interest test -

Madam CHAIR - I remind the member she is dealing with the amendment we are dealing with. I know there is some reference to those other clauses, but they will be prosecuted at a later time. You need to make a case here for the amendment we are dealing with.

Ms WEBB - Suffice it to say I do not think a public interest test belongs linked to scale and complexity. It belongs linked to what the panel should be satisfied of when they grant a permit.

I think scale and complexity are important elements to have here. I think it should be further detailed in the determination guidelines where it would sit alongside (a) and (b). Perhaps it would be a briefer section, but so be it.

I would like to think we would benefit by clarifying and sensibly adjusting this amendment in terms of relevance; we could look at achieving the stated intention of this elsewhere.

Mrs HISCUTT - I hear the member saying things like - 'I think this', and 'I think that'. Well, we think the people who have been working on it for five years think it should be there and they think it is a regional thing and not a local thing, therefore it needs a bit more expansion and it is fundamental to the scope of the major projects bill. It is fundamental to the scope and they have been working on this for five years - the departmental people are of the solid opinion this needs to be there. They do not think it should be there, they know it needs to be there - and it has nothing to do with politicking or anything like that, it is based on a regional thing, more than one council as opposed to a local thing. It has to be there.

Mr VALENTINE - It is the determination guidelines that are actually advertised, is it not? Are they advertised?

Mrs Hiscutt - No.

Mr VALENTINE - If it is the determination guidelines that are advertised, then one would expect all the components of those guidelines are what the project is going to be measured against at the end of the day.

If they are being advertised, why is all of this not in the determination guidelines so the public is aware of everything that the project has to fit?

Mrs HISCUTT - It depends on what you mean about advertising - whether you mean seeking contributions or being advertised, because I think you might be confusing it with the assessment criteria.

Mr Valentine - Where are the determination guidelines advertised? Can you point to that?

Mrs HISCUTT - They are published. I think I have read it out before where they are published.

Ms RATTRAY - To clarify, is the member asking that we remove paragraph (b) but it will be picked up later in the twenty-fifth amendment further over, under those new - and saying that it means the same thing? Is that the request? Is that what you are asking?

Ms Webb - Yes, 25 inserts the public interest test.

Mrs HISCUTT - I will seek some advice, but basically speaking if you remove it from this proposed section, which is, 'When project is eligible to be declared major project', that has gone and it is about regional interest. Once it is removed, it does not have to be declared so once it has gone, it has gone.

Mr DEAN - I cannot support the amendment; having run my previous position and argument, I lost it or it was explained to me, and I am happy to move forward with this. In my view, if we remove (b), that really weakens (c) to some extent; (b) explains more that what fits into the project is of significant scale and complexity, and that is a requirement of the minister - (b) simply explains further what is necessary and required to become a major project to fit in with this bill. If you read through it -

> (b) whether the activities that are proposed to be carried out on the land after the construction phase of the project is completed are of interest to, or for the benefit of, a wider sector of the public than resides in the municipal area, or municipal areas, in which the project is to be situated.

If it did not meet that position, it probably would or could not be judged as a project of significance. I cannot support the removal of it because of that circumstance.

Mrs HISCUTT - That is exactly as it is.

Ms WEBB - To clarify a couple of those things. In terms of the fact that somehow that demonstrates it is a regional interest, we already have in the eligibility test that of these three things, (a), (b) and (c), being -

> (a) the project will have a significant impact on, or make a significant contribution to, a region's economy, environment or social fabric;
>
> (b) the project is of strategic importance to a region;
>
> (c) the project is of significant scale and complexity.

Two of those three criteria have to be met. If one of the eligibility criteria is scale and complexity - and we might take that to mean the normal or definitional ways we would think of scale - bigness - and complexity - how complex it is in design or implications - if that is one of the two criteria, it must also meet one of the others, either (a) or (b). It must also be either a project with (a) -

> a significant impact on, or make a significant contribution to, a region's economy, environment or social fabric

That captures the regionality aspect of demonstrating this should be eligible to be a major project. It has to be one of (a) and (b), if you are using (c) as a point of eligibility. If you are not using (c), you are using (a) and (b), and they are clearly saying to you that this is a regionally important project. That is why you deem it eligible to be considered as a major project.

I reiterate: I think this is very clearly tied to (c). It is about scale and complexity. I do not believe that the level of interest in the public in the broader area is a measure of scale and complexity. I suggest that we capture in this eligibility phase - deeming a project to be eligible to go into the process - the interests of the region through (a) and (b), at least one of which has to be there. When a project goes through this process and gets to the assessment stage, when the panel has to make a determination, I think that is where, to the satisfaction of the panel, it needs to be shown it is in the public interest in some fashion.

That is my argument for why (2)(b) is not needed here; it is not aligned to what it has been linked to - scale and significance - and we can capture the intent of that well in other parts of the bill, and certainly for the inclusion of public interest as a matter to be satisfied before granting a permit.

Mrs HISCUTT - We simply cannot unpack and repack the eligibility criteria.

Ms Webb - I am not doing that -

Mrs HISCUTT - You are trying to take it out. These are the eligibility criteria.

Madam CHAIR - Let the Leader finish.

Mrs HISCUTT - These are the eligibility criteria and they need to be there to explain what has to be there. It is simply saying if you go to (c), you also need to fill in or satisfy these other requirements. It has to be there.

Ms Webb - It does not say that. It says they have to be considered.

Madam CHAIR - You need to take your third call if you wish to respond to the Leader.

Ms Webb - I think I have had my third call.

Madam CHAIR - You have only had two on the amendment, so you do have one more call. Member for Nelson, third call.

Ms WEBB - Just to be very clear, I am absolutely and utterly not doing anything at all to adjust the eligibility criteria. With this amendment, the eligibility criteria stay entirely the same and entirely robust: (a), (b) and (c) - they are the eligibility criteria, two of which have to be met. This does nothing to jeopardise those eligibility criteria. What (2) does is not to exhaustively describe what is covered by (c) in terms of scale and complexity. It merely says for the purposes of subsection 1(c), in determining whether the project is of significant scale and complexity, the minister is to consider. Then it lays out (a), which has measurable things that definitely in all our minds, I think, would link to whether it is big and whether it is complex.

Then it has (b), which I propose it does not need because it does not actually describe anything that relates to scale or complexity. It extends the idea of scale and complexity to something completely unrelated, which is of how much interest it is to the public.

What I am suggesting, to be very clear - and it is a shame to twist inaccurately what I am saying - is not jeopardising the eligibility criteria. I am clarifying them - they remain exactly as they are with this amendment. I am not taking away anything. If the Government were quite keen to make sure that (c) was well understood and the scope of it was very publicly available, it would put it in the determination guidelines.

If you felt there was anything lost by removing (b) - which I do not think there is, and I do not think it has been demonstrated that there is - you could capture it in what the determination guidelines will go on to say about (c) as a core eligibility criteria.

There is no jeopardy to this process and yes, I am saying what I think - and I would prefer not to be pulled up on that - because we are here to put forward, on our best understanding, with good research and consultation, and good critical thinking, because it is our job here to do that. We are here to talk about and put forward thoughts about what we think would improve the bill. That is the basis on which I am making the suggested amendment. I think we do not lose anything by removing (b), nothing that could not be well captured in the determination guidelines. It ensures that we have not actually overreached in trying to put something into this concept of scale and complexity that simply does not need to be there.

Mrs HISCUTT - Madam Chair, the intention is that there has to be, or there should be, a regional aspect to the big scale and complexity. If you delete it and it changes the way it is interpreted, that is why it is put into the legislation. Clarification of the criteria is needed for (c). It needs to be there.

After the five years of work that has been put into this, the Government thinks, knows, is sure that this needs to be here. The Government does not control the determination guidelines; it is the commission. The commission needs the legislation to work through to be able to do their job properly. We feel that this needs to be here, and if it is deleted, you cannot put it in anywhere else. This is here in legislation, the guidelines for the determination be made.

Ms RATTRAY - If it does not make any difference to having it, and there is enough explanation around significant scale and complexity as in (2), what is the problem? I am just trying to understand if it is only an extra, does that not help the understanding of what is required?

I hear what you say that it does not add to it, but if it does not actually take away either, is there a problem with that? I am just trying to get my head around that.

I might just stand -

Madam CHAIR - The member has used all her calls. We will see how we go; I am only going to allow a little bit of leeway here. We have to move on and the argument has been prosecuted.

I'll grant a little bit of leeway if the member needs to respond to that and if the member is asked a question. The member for McIntyre needs to remain on her feet if she wants a response to that. We need to be very focused.

Ms RATTRAY - I will not ask again at the wrong time.

Ms Webb - No, that is okay. I do not think we should leave it in there if it is not serving a clear function that relates to what it is pegged to. Here it is underneath scale and complexity. I do not think it belongs there; it is not about scale or complexity. I think that is detrimental to the fidelity of the bill. I think we can deal with that appropriately at a later stage of the bill. Does that answer your question?

Ms RATTRAY - It does, but I cannot see that what you proposed in clause 25(ea) and (eb) is the same. But we will have that discussion at a later time.

Mrs HISCUTT - Just for a little bit of clarity, (a) is about the impacts and the contributions to a region, (b) is about strategic importance, (c) is about scale and complexity of a regional interest. They are three different sets. We need them there. Once you delete them, or delete one, two, three, it has gone.

Amendment negatived.

Proposed new section 60M agreed to.

Proposed new section 60N -
When a project is ineligible to be declared to be major project

First amendment -

Ms WEBB - Madam Chair, I move that proposed new section 60N(2) be amended by -

Insert the following subsections:

(3) If a project consists, wholly or partly, of a use or development, in relation to land, that is substantially the same as a use or development -

(a) in relation to which a person or body is granted, or refused to grant, in relation to the land, a permit or project-related permit; or

(b) in relation to an order, in relation to the land -

(i) has been made under section 18 of the State Policies and Projects Act 1993, and

(ii) has not been approved by each House of Parliament before the end -

Mr Valentine - 'Has been approved'.

Mrs HISCUTT - Point of explanation, could you read (ii) again please? You said 'has not been'

Ms WEBB - The one I have in front of me says 'has not been'.

Madam CHAIR - Has been approved.

Mrs HISCUTT - The one that we have is 'has been approved'.

Ms WEBB - Let me just pick up my other copy in the event I am looking at an old one.

Madam CHAIR - We are in subsection (ii) of the new proposed subsection(3)(b).

Ms WEBB - I am looking at a third amendment for proposed new section 60N(2)(b), after proposed subsection (ii).

Madam CHAIR - We have to put proposed subsection (ii). That is where you are up to -

Ms WEBB - I move the following amendment -

> (ii) has been approved by each House of Parliament before the end of the period of 15 sitting-days after the day on which the order was laid before the House; or
>
> (c) in relation to which an order, in relation to the land-
>
> (i) has been made under section 18 of the State Policies and Projects Act 1993; but
>
> (ii) has not been approved by each House of Parliament before the end of the period of 15 sitting-days after the day on which the order was laid before the House -
>
> then, despite section 60M, the project is not eligible to be declared to be a major project under section 60O within the 2-year period after the day of the grant or refusal or the day after the expiry of the period of 15 sitting-days, as the case may be.
>
> (4) If a Tribunal or Court affirms a decision to refuse to grant or permit a project-related permit in relation to a proposed use or development on land that is substantially the same as a proposed use or development, in relation to the land, to which a project relates, a reference in subsection (3) to the day of the refusal is to be taken to be a reference to the day on which the Tribunal or Court affirms the decision to refuse.

(5) Despite section 60M, a project is not eligible to be declared to be a major project under section 60O if-

(a) The project consists in whole or in part of a use or development, in relation to land, that is substantially similar to a use or development, in relation to all or part of the land, to which relates a decision to refuse to grant a permit or project-related permit; and

(b) there are legal proceedings before a Tribunal or Court in relation to that decision.

I thank members for their forbearance with my confusion of versions. I am proposing to include a wordy amendment in proposed new section 60N. Its purpose in a broad sense is fairness and reasonableness. It is about transparency. It is to remove complexity and create certainty. It does that basically by providing the opportunity to reduce any instance of forum shopping that might be perceived to be available to proponents under this bill. It is to stop disruption of court and tribunal proceedings that may be on foot. It reflects the existing position in section 62(2) of LUPAA and it expands on it by preventing a declaration of a major project if a substantially similar development has been refused or approved by a tribunal in the last two years. It does it by preventing a declaration of a major project where it has been refused an approval for a substantially similar use or development in the last two years, including under the State Policies and Projects Act.

This does not prevent a major project from being brought forward, only a substantially similar one to something that was refused by relevant regulator, a council or a tribunal. This amendment simply requires the proposal to be amended, so it is not substantially the same as one that has been considered by a different decision-maker. It operates in a similar way in some senses to the no reasonable prospects test. If a regulator has refused the same project in the past two years, why would it change its mind on a major project? It also prevents wasted time and costs if a project had been considered by a tribunal, or is indeed still before a tribunal or on an appeal. Declaring it to be a major project and inserting it into this process will waste the time and resources of all those concerned. Not only would that be the council or any person affected or proponent, but it would also be the tribunal or court in which those proceedings were continuing.

For example, if a project is a level 2 project assessed by the EPA under the EMPCA, but needing a planning permit from the council, the council refuses it on the EPA's recommendation. The proponent appeals. Members of the public apply to be joined as parties. The tribunal hears the matter and refuses to grant a permit. The proponent then approaches the minister and has it declared a major project. Every single participant has to go through the process again, including incurring any expert or legal fees on exactly the same project.

Another example might be if a project is before the tribunal on appeal and the proponent asks for it to be declared a major project and it is declared as such by the minister, the project must pass the no reasonable prospects test. If the project is issued a no reasonable prospects notice when a proponent asks for the declaration to be revoked, what happens to the tribunal proceeding? Does it stay on foot until the major project process is complete? Does it get withdrawn from the tribunal process?

This amendment is intended - despite the wording when I read it out loud - to remove complexity and create certainty. It simply asks the proponent to make a choice really about whether to seek major project declaration at an early stage of thinking about how to proceed with a proposal.

Proponents like certainty and a lack of duplication and confidence in due process and so do communities so, I think - no, I do not think - this amendment provides that certainty and confidence to communities without undue imposition on a proponent. It is simply requires them to consider going down the major projects avenue at the first instance of their project to test if it warrants eligibility and begin that, not if it has already been rejected or not in progress in a tribunal sense or in an appeal somewhere else.

I think is important that the amendment is one extra piece of the puzzle that could be there to remove any perception of ministerial override that might happen or might be perceived to happen, which is generally the thing that occurs rather than actually happening.

There is an opportunity for a proponent to be seen to be given special treatment, potentially by a minister, who had been refused through maybe those other avenues; this ensures that the minister has clarity in not being put in a position of having to contemplate the possibility of an override situation or the perception that may be occurring and implications that might be drawn from that.

I believe the only reason not to insert this just as an explicit statement in the bill is that if it is anticipated with some refused projects or projects still in dispute, proceedings may want to be given a pathway into the major projects process.

I do not think that balances well if our intention is to leave a doorway open. I do not think that actually delivers us effective community confidence or a sense of natural justice. This does not stop a process necessarily midway. This amendment does not say a proponent could not, say, be part way through being assessed in another sphere - say, a council - and then decide that actually it might be best warranted to bring it to the major projects process. It still allows for that.

It says that if it has been refused by the council, it cannot come to the major projects process unless it has been changed in some meaningful way. It does not prevent a shift if you are midway through the process. It does prevent its refusal it is an active matter happening in the tribunal or in that court setting. I encourage members to think about this as a useful addition.

It is just about clarity and articulating the particular principle you do not give people an opportunity to shop around and find what might be seen as the best option, and that there is a reasonable distance between a refusal or an appeal in court proceeding and this process.

Mrs HISCUTT - What it does create is an inconsistency. The concept behind this amendment would introduce an inconsistency into the State Planning Scheme, the system. The amendment would prevent the major projects process commencing yet still allow other planning processes to be commenced. These other processes are the PORS process or the MIDA process or amendment to the LPS process, which all have the ability to alter the rules in a planning scheme.

Further, there is currently no two-year ban on a council's or regulator's decision to refuse an application. To reiterate: on the above grounds the amendment is not supported.

The amendment creates inconsistency. It is an application to a different process, and not the same process. The first assessment might be against a planning scheme but this can allow it to be approved under different rules, the specific assessment criteria and not the normal planning rules. This amendment will create an inconsistency and the Government does not support it.

Mr VALENTINE - So I can understand this, the statement was made that there is no two-year ban. There is a two-year ban on a matter that the council has passed and it goes to the tribunal for a decision and the tribunal makes a decision. It is the ban after the tribunal has heard it, if I am not mistaken? Is that right?

It may well be that the council cannot deal with a matter until the two years are up, if indeed the tribunal has made a determination on it. I think the member for Nelson is right in that regard. It is possible that there is a ban that a council cannot hear another application within two years if it has gone right through to an appeal.

Mrs HISCUTT - If it is has gone through to the tribunal, that is correct. There is currently no two-year ban on the council, but if it has been to the tribunal then there is.

Ms WEBB - Just on that point, there are many ways this process is not consistent with the council process because they are quite different. Their intent and function are really quite different; that is why we created it because we already have council functions. This is something new and different.

I think it is reasonable to expect that this process, which we know relates to projects of significance, and in terms of regions, of scale and complexity and of great impact - I think it is reasonable that because of that we would put a higher expectation than we might in a council process in terms of putting this sort of measure in place that is quite aligned to the measure that is in place in relation to the tribunal and the decision made there which then triggers a two-year ban.

This is very aligned to that; in fact I think, given something has gone to the tribunal on appeal like that, that is probably an indication of some complexity and some matters of difficulty that needed to be resolved. These projects are even more likely to be quite significant matters and so I think applying the same thinking is fairly reasonable. I do not think there is an inconsistency there. In fact, there could be something along the lines where there is even, I believe, discretion with the Resource Management and Planning Appeal Tribunal - RMPAT - to reduce the time frame of the ban - the two years - in terms of resubmission. The proponents can seek leave to submit something within those two years if they can show that modifications have been made, and it is not entirely the same and there is enough difference in what had been refused by the tribunal. Perhaps it is a similar thing here. If the amendment allows for this if it had been refused in one of those other spheres, or at a tribunal on appeal, if it was brought to the major projects process with sufficient differentness, with a newness to it, then it would not have the two-year imposition time where it cannot be submitted.

I think that is aligned. I think it is reasonable. I think it delivers public confidence. I think we should be looking for opportunities to deliver public confidence in this process so I really encourage members to think about the value that this adds in that sphere, in that

confidence thing. It does not take anything away because we are only talking about things that have been refused and had the door closed on them in other really robust and well-regarded processes.

Mrs HISCUTT - It creates an inconsistency because it does not make sense. The planning scheme rules and the council are bound by the Resource Management and Planning Appeal Tribunal. The major project rules, if it is the same project, introduces new rules with different assessments. This amendment is creating an inconsistency.

Madam Chair, there is nothing much more I can say. It creates an inconsistency, it is a totally different set of rules.

Mr VALENTINE - While the Leader is on her feet, just a clarification on a statement the Leader made with regard to planning scheme rules being bound by RMPAT. I need to understand that.

Mrs HISCUTT - Sorry, I am advised I misquoted. What I meant to say is that the council and RMPAT are bound by the planning scheme rules. Thank you for the clarification.

Ms RATTRAY - Regarding laying any document before each House of parliament, is that intended for it to be a disallowable instrument, or is it just information for the parliament? I just want to get an understanding of that.

Ms WEBB - This is not requiring that to be done in any sense. They are describing the circumstances under which the two-year ban would be in place to then bring a proposal to the major project process, if that makes sense.

Ms RATTRAY - Is the two-year period what it takes for a refusal for perhaps a large project that has been refused? I know planning can take some time, but I am interested in the two years.

Madam CHAIR - Before you sit down, does it briefly answer where the two years came from? Members need to get up early if they have questions.

The member might like to resume her seat for the moment while I speak.

The reason we have a process that allows three calls on each clause or amendment is to allow for an orderly debate, so members, if they have questions, need to get up early on the amendments and ask the question, otherwise it becomes a sham like this where people are trying to answer questions from their seat. Please consider the process when trying to move this forward in an orderly manner.

Could the member resume her feet so the member can actually respond to the two-year question?

Ms Rattray - Thank you for that ruling, Madam Chair. I will endeavour to do better.

Ms WEBB - To answer that question very briefly.

Madam CHAIR - Ask all of your questions at once is a point.

Mr Valentine - The difficulty is that they come up as people speak.

Ms WEBB - That two years is simply to align with what is already in place with the tribunal so there is consistency. I presume when that was first determined in relation to the tribunal, two years is seen as a seemly amount of time to have something refused, then go away, perhaps be rejigged and brought back.

Mrs HISCUTT - If it is a local thing through the council, you can go and get a planning scheme amendment, whereas with the other one you have to start and start again and there is no two-year ban with the same project. It has to go back to the beginning and start again.

Mr DEAN - You are saying that if this amendment is supported, it will create an inconsistency. Talking about the project and whether it fits et cetera and would be accepted, can you give me an example of how it would impact if you can use a project and the inconsistency that this amendment would create? Can it be explained in a simplified way?

Mrs HISCUTT - You cannot apply the same rules to each lot. These are new and different rules. There is no two-year ban, whereas the other one we are talking about, keeping consistency and all that, you can get a planning scheme amendment. It is totally different. That is why it creates an inconsistency.

Amendment negatived.

Proposed new section 60N agreed to.

Madam CHAIR - Before we get to any further amendments, I remind members to have some consideration for the member moving the amendment - they only have three calls. Please try to put your questions into one question and allow the member time to think. Perhaps more than one person get up and ask a question before the member who is moving it is required to answer. It is difficult when you have a member trying to prosecute a complex amendment. Just respect for everybody.

Mr Gaffney - Madam Chair, is anybody else cold? I am freezing over here and I am feeling sick.

Madam CHAIR - We might shut this door, which I think is where the draught is coming in.

In terms of trying to facilitate this, we have many amendments to continue with. When we are dealing with the consideration of a clause, it should not be a free-ranging debate - that was for the second reading stage. The debate during reference to any clause or amendment to a clause should not be free-ranging, it should be specific to the clause. Technical and specific questions.

As I said, if you have questions related to an amendment, try to put those together. Obviously the Leader has unlimited calls, so you can ask individual questions to the Leader. But we do need to try to move things through and get the answers that members are seeking.

Proposed new section 60O -
Declaration of major project

First amendment -

Ms WEBB - Madam Chair, I move that proposed new section 60O be amended by after proposed subsection (1) -

Insert the following subsection -

(1A) The Minister may not make a declaration under subsection (1) unless there are determination guidelines that are in force.

Again, this amendment is about transparency and accountability and public confidence. It is to ensure that the determination guidelines that are to be created must be in place for the minister to be able to make a major project declaration. It is about providing certainty and, to some extent, restoring a level of trust that may have been eroded. The determination guidelines are about providing certainty to the community. They become an objective set of information and standards, to some extent, that the community can have confidence will be the backbone of this process.

They also give certainty in a similar way to proponents around what sort of project will be considered under this process. As the bill stands, there is no consequence if the commission does not produce the determination guidelines in six months, or if any guidelines are revoked in the period of time before they might be rewritten.

In pointing that out, I am not in any way suggesting that the commission may not produce the guidelines. I am just pointing out that there is a period of time in which they will not exist yet, and that there is no penalty, there is no consequence, if that period of time becomes extended.

This amendment is aimed at ensuring that the guidelines are produced in that time line to avoid the potential delays that might happen. Delays could happen for all kinds of reasons. This year, we have had a very clear experience of external circumstances causing delays that can happen in pandemics and whatnot.

I suggest that people would find it quite disturbing to see projects declared major projects and put into this process by the minister in the absence of those guidelines.

In the interests of transparency and accountability, and to ensure that public confidence is appropriately balanced against the favourable expediency that this process hopes to deliver for the proponent, this amendment fairly straightforwardly requires that no declarations are made until those guidelines are in place, or until at such time in the future when they may have been revoked that they are put back in place.

We have done quite well without this project in place for some time. We could wait until our determination guidelines are clarified and published, in the same way that the department and others have been working hard on this bill over a five-year period. I am sure the commission has been giving thought to what guidelines may need to be thought through and put in place under the determination guidelines. That work will be important.

I think the detail of it, as I said, is the backbone of the public understanding what will be contemplated in this process. I know the Government has said that if the guidelines are not in

place, the minister, before making a declaration, still has to interact with the commission about that process, about the declaration decision, but there is no public accountability in that.

It does not provide a clear, transparent playing field in the open before that decision to make a declaration occurs. I suggest that members consider that a fairly straightforward and not particularly onerous expectation is outlined in this amendment, of ensuring that the determination guidelines are there.

We have already heard that very essential matters will be given full detail in these guidelines, particularly around the eligibility criteria we just discussed in (a) and (b).

Madam SPEAKER - Let us stick back to this. Let us be really focused on this amendment.

Ms WEBB - Yes. I encourage members to support this amendment, to give effect to this, which will deliver public confidence, and ensure transparency and accountability before a declaration is made.

Mrs HISCUTT - The proposed amendments will prevent major projects from being considered until the determination guidelines are made. The determination guidelines are intended to aid interpretation of the eligibility criteria, and will be written in a generic nature and be considered with every major project.

These guidelines will be prepared by the Tasmanian Planning Commission. The guidelines themselves will not be fatal to the decision as to whether a project is declared or not. They will act as a guide to enable interpretation of the eligibility criteria.

There is no need to limit consideration of major projects until these guidelines have been prepared, because under proposed new section 60I, where the minister is considering to declare a major project, the minister is required to consult with the Tasmanian Planning Commission and consider their advice. One example is the Bridgewater Bridge, which would have to wait six months before it could be declared. That is six months just to get to the start point. On that basis, the amendments to proposed new section 60O are not supported by the Government at all.

Mr VALENTINE - Obviously, the guidelines are important in terms of the public's understanding as to what is expected of a major project. Sorry, I used the word 'advertised' but 'published' is what it is, and yes, they are generic. It is important that the public is aware of exactly what guidelines are there to govern the major project, whether or not it is a major project. I see this as being a fair and reasonable thing and whether it takes time to do it or not, the public needs to know what the boundaries or borders are in relation to what a major project is. I think it is a fair amendment.

Mrs HISCUTT - There is nothing much more I can add. The Government's opinion is that it is not a fair amendment. I have said all I need to say. We totally disagree and we have spent five years working on this.

Amendment negatived.

Ms WEBB - There is another amendment on that same clause.

Madam CHAIR - The vote was not recorded so we will just go to the next amendment.

Ms WEBB - Actually, the fifth one goes with the one we just dealt with. Because we did not pass the fourth amendment, I believe that consequentially that was passed.

Madam CHAIR - The fifth amendment on the list provided to us is associated with the fourth amendment? And we will have a sixth amendment?

Ms WEBB - That was also consequential.

Mrs HISCUTT - My advisers are confirming that what the member for Nelson is saying is true.

Proposed new section 60O agreed to.

Proposed new section 60P -
Circumstances in which declaration of major project may be made

Mr VALENTINE - I am interested in looking at 60P(1)(a) as it is at the moment. I am not putting my amendment yet because I want to ask a question in respect to this. The minister may only declare a project to be a major project under section whatever it says there, and it gives a couple of things that the minister has to look at.

Again, it seems to me that it would be most pertinent for the minister to make sure that the project was consistent with the determination guidelines. Before I move my amendment, I ask: why would that not be something the Government would want to see happen?

Mrs HISCUTT - You cannot assess a project against guidelines. This issue is already clearly addressed in the bill at proposed new section 60O(3) where the minister is to have regard to the determination guidelines in determining whether to declare a proposal.

First amendment -

Mr VALENTINE - The point is it is not so much an assessment as it is making sure that the project is consistent with them. I move that after proposed new section 60P(1)(b) -

Insert the following paragraph:

(c) the Minister is satisfied that declaring the project to be a major project is consistent with the determination guidelines.

If the determination guidelines exist, they are there for a reason, otherwise why have them? They are there for a reason so if they are there for a reason, which is to provide a guide as to what a major project is or is not - and it may well be other things are considered as we were dealing with under proposed new section 60M, which is fine - it ought to be demonstrated that the project is within the guidelines.

I think it is valid to have that here because it is about whether it is consistent with the determination guidelines. I would be interested to hear the response to that.

Mrs HISCUTT - I should mention that the amendment would be fine if the guidelines were to say, 'must not declare if *x, x* or *x*' because you could work out if the declaration of a major project was consistent with this, but the Government does not think that is quite how this is framed.

I expect it then to be more along the lines of, for example, 'one matter to be considered is whether or the extent to which the project will damage local fauna' - that is, the statements that are not, you can declare, or you cannot declare. In this case, it would be hard to say the decision was consistent with the guidelines, only that as they are currently framed, the minister had considered the matter.

Mr VALENTINE - I still think it is valid because I really think it makes a bit of a nonsense of the guidelines. If they are never ever going to be used to be able to line up a project to it and demonstrate that the project is within the guidelines, why have them there?

Mrs HISCUTT - I think the member has it back to front. You are trying to make it consistent with the guidelines as opposed to the guidelines being consistent.

Mr VALENTINE - Declaring the project; I cannot speak again.

Ms WEBB - To clarify, I do not think that is what the member for Hobart is mistaking. I think he is suggesting that we have eligibility criteria - there are three of them. The determination guidelines will put further detail to each of those three eligibility criteria. The minister is to consider the guidelines in deciding whether the project meets at least two of the eligibility criteria. The member is suggesting there would be, I think, absolute consistency in it being a requirement the minister is to be satisfied that, having deemed the project eligible, it is consistent then with the guidelines.

That is a pretty straightforward and unremarkable thing to expect, that a decision made about eligibility on three firm criteria, which have been provided in detail in the guidelines, will arrive in a decision consistent with those guidelines.

Mrs HISCUTT - It is hard to be consistent with guidelines, because guidelines are guidelines. Proposed new section 60O says -

> (3) in determining whether to declare a project to be a major project, the Minister is to have regard to the determination guidelines …

That is as well as (a) and (b) that are mentioned. This issue is already clearly addressed in the bill where I have just read it to you, where the minister is to have regard to the determination guidelines in determining whether to declare its proposal. The guidelines are the guidelines. The amendment is not supported. That is about all I can say.

Ms WEBB - I am going to think this through. The eligibility criteria are described in guidelines prepared by the commission independently to put meat to the bones on what those three items mean. The minister decides whether the project meets at least two of those. If the minister decides it does, that it is therefore eligible, and makes the declaration of the project. Now, if the minister has made the determination that at least two of those eligibility criteria have been met in a way that is not consistent with the guidelines, which actually described those eligibility criteria in more detail, where would that circumstance land us? Surely it is a

given that the decision of the minister to deem eligibility on those criteria would be consistent with the guidelines and there is no harm, in fact there is just greater certainty and clarity in specifying that needs to be the case.

If we had a situation where the minister decided that at least two of those eligibility criteria had been met - and the minister has to give reasons, has to support the decision that yes, it meets (a) (b), whichever, and those reasons given that the minister decided, yes, it meets that criteria and that one, and those reasons are not consistent with the determination guidelines that outline what those eligibility criteria mean, that is an extraordinary circumstance we would be faced with. Where would we be left then? I do not know or understand how we could not have an expectation that decision would be reflective of the guidelines and could be said to be consistent with them.

Perhaps the Leader could explain how it could come about that the determination might be made in an inconsistent or a not consistent way with the guidelines, either of those.

Mrs HISCUTT - Your amendment, member, is moving from a consideration of the guidelines to be a consistency with the guidelines. This is already in the bill, or what the minister has to do, at proposed new section 60Q(1)(e), articulated by the member for Nelson before. I can read it out for you.

It says -

> the attributes of the project specified in section 60M(1), which, in the opinion of the Minister, are such that the project is eligible to be declared to be a major project.

It is taken under consideration.

Ms RATTRAY - Madam Chair, reading what the Leader talked about - when determining whether to declare a project, it must be a major project, the minister is 'to have regard to the determination guidelines' and then says 'if any'. I do not think it is unreasonable to ask that they are consistent with the guidelines, given that there might not be, as it says, 'if any'. It actually puts the onus on having guidelines. Maybe I have that wrong, but it says, 'if any' - so the determination guidelines 'if any' - so this particular amendment, if I am right, actually makes sure that there are determination guidelines because they must be consistent with them. That would actually make sure that there were determination guidelines. I would appreciate it if the Leader could confirm if I am right or wrong.

Mrs HISCUTT - Madam Chair, it is simple - it is not simple at all. The words 'if any' mean there may have been guidelines before, they may have changed and the project might have gone in again, and then there will have to be another lot, but there may be a period of time where there may not be any guidelines. So, there will be guidelines at some stage and, at this particular point, if any, when it is being considered, they will have to be developed if there are none there currently, as opposed to the ones that had been developed and discarded.

Mr VALENTINE - That is interesting - you are talking about guidelines that could have existed and then they have been pushed aside and then there are some new ones happening. I thought the determination guidelines were developed once and published.

Mrs Hiscutt - That is the revoking bit we were talking about earlier - if they were revoked, there are none.

Mr VALENTINE - Okay. That is an interesting circumstance and I reckon we are past that point where we can do anything about it, but anyway. Thank you for the information.

Ms WEBB - I did not receive an answer to what I asked in my second call, which was to do with the fact that in the scenario I laid out, where the minister decides to declare a project, having assessed two eligibility criteria as being present and that decision and the reasons for it would be inconsistent with, or not consistent with, the guidelines.

Such a scenario is the only reason not to do this amendment. To allow for that scenario to occur, because all this amendment asks is, at the point the minister declares a project, the minister says that this project has merit, this eligibility criteria - (a) and (b), or it could be any two of (a), (b) and (c) - 'two criteria are met, I am going to declare it in this process and here are my reasons.'. If those reasons are not consistent with the determination guidelines, which are all about the eligibility criteria and what they look like, and the reasons given by the minister are either inconsistent with or not consistent with those determination guidelines, that is a circumstance that would be extraordinary to the public. To everybody, because that is why we have asked for the guidelines to be there, to give us an idea about what these eligibility criteria mean, clearly, to the independent body developing them. The TPC is developing them. If the reasons are not consistent or are inconsistent with those, where would that leave us? The only reason not to do the amendment that the member for Hobart has proposed is if we want to leave the door open for that to happen: for the minister to be able to give reasons that eligibility criteria are met that is either not consistent or is inconsistent with the determination guidelines.

Is that what we are doing? We are wanting to leave the door open for that scenario or if not, explain how that scenario would be appropriate and could come about.

Mrs HISCUTT - I am advised that it takes us back to before we were talking about guidelines. If there are no guidelines, they cannot be declared a project.

Ms Webb - Well, they can. That is what my amendment tried to do.

Mrs HISCUTT - To be consistent.

Amendment negatived.

Mr VALENTINE - Madam Chair, before I put this again, I want to ask some questions.

Madam CHAIR - This will be your third call on the unamended proposed new section 60P.

Mr VALENTINE - Okay.

Madam CHAIR - You will need to move it on this call.

Mr VALENTINE - Yes, I understand.

Madam CHAIR - You can ask your question but you still need to move it.

Mr VALENTINE - I need some information, but I was going to ask the question but I will need the information before I move it. It is a bit difficult. I will move it anyway and then I might withdraw it. I suppose that is a possibility.

Madam CHAIR - You can ask the question after you have moved the amendment.

Mr VALENTINE - Madam Chair, I move that proposed new section 60P(2)(b) be amended by -

Leave out 'the general manager in relation to'.

I am interested to know why this is the way it is because subsection (2) says the minister may only declare a project to be a major project under section 60O if -

> (a) if all or part of the land on which the project is to be situated is Crown land, within the meaning of the *Crown Lands Act 1976* – with the consent of the Minister to whom the administration of that Act is assigned; or
>
> (b) if all or part of the land on which the project is to be situated is land owned by a council – with the consent of the general manager in relation to the council; or
>
> (c) if all or part of the land on which the project is to be situated is in Wellington Park – with the consent of the Wellington Park Management Trust.

With those three, the government, the council and the Wellington Park Management Trust, the Government has a political person saying 'yes' or 'no'; the Wellington Park Management Trust has the trust, which is made up of political people - it is not the CEO of the trust saying 'yes' or 'no' - but the council has the general manager, and not the council. I am really interested in why that is the way it is.

I think I know what the answer is going to be that the general manager is delegated that responsibility under LUPAA. I reckon that is the answer that is going to come back. I am getting a bit of a nod but for the purposes of this - it should be the council and to be consistent, the minister gets a guernsey, the Trust gets a guernsey - not the CEO of the Trust – with the council, it is the general manager and what happens with that?

I know through my experience in council that anything to do with land is delegated to the general manager. The general manager can go to the council. He can ask the council's opinion but the council cannot direct the general manager. The council cannot direct the general manager if it is delegated to the general manager.

Ms Armitage - Launceston does not have a general manager, they have a CEO.

Mr VALENTINE - That is an interesting point. I think to be consistent, this needs to say, according to my amendment, it takes out 'the general manager in relation to', and it simply says 'the council', which is the elected body. I will move that amendment. I will be interested to hear the response that I get.

Mrs HISCUTT - You are partially right, it is there in the LUPAA, at section 52 - you probably know the LUPAA - but it is there.

Mr VALENTINE - Not entirely, obviously.

Mrs HISCUTT - Section 52(1B) of LUPAA talks about the land owned by the council. It talks about it being owned by the council or administered and owned by the council, or a council and a planning scheme does not provide otherwise et cetera. Then, if it says that in subsection (1B), 'general manager' has the same meaning as in Local Government Act. It clearly says it is general manager.

The granting of landowner consent is a power normally delegated by the council through its general manager. The general manager always has the option of consulting with, or seeking the approval of, elected members prior to granting the consent.

The current wording in the bill reflects that standard practice. It is considered operational within the council. LGAT did not raise this as a problem at all; there was no issue with them there. It is entirely up to the council if it delegates it to its general manager.

Ms ARMITAGE - In the case of a council such as Launceston, where its general managers are now general managers of infrastructure, planning, and its head of council is now a chief executive officer, does that make the member's amendment more relevant?

Mrs HISCUTT - It is under the LUPAA, section 52(1C) - 'In subsection (1B), 'general manager' has the same meaning as in the Local Government Act 1993'. Yes, they are all covered.

Ms RATTRAY - Madam Chair, I am going to support this amendment. I very much appreciate the member bringing it forward. We have councils that have delegated authority to general managers. I heard what the member for Hobart said - you cannot direct a general manager - but we also know that we have general managers who do not take back matters to the council table. For one reason or another, they do not - they may well have been given delegated authority. I could probably give you a couple of instances, but I will not because it would take up time.

The council, including the mayor, may not even know that the general manager has decided to do something on behalf of the council. I absolutely agree that it should be 'the council'. If it is inconsistent with LUPAA, well, bring that one forward and we will amend that one too.

Mrs HISCUTT - I can only reiterate what I have already said, the Government has looked at it. It has not been raised by LGAT as a problem. We will not be supporting the amendment.

Ms RATTRAY - LGAT would normally ask the general managers.

Mr DEAN - I have listened to the backwards and forwards and all over the place here. Guidelines are simply guidelines, nothing more than that. It is the act that really has the priority and the precedence here as to what you do. Guidelines change every other day, same as policies. Policies change.

Madam CHAIR - Member for Windermere, I am not sure where the guidelines come into this. We are talking about the role of the council versus general manager.

Mr DEAN - I thought we were.

Madam CHAIR - This is major projects.

Mr Valentine - My second amendment.

Mr DEAN - Yes, the general manager in relation to - sorry, I am out of order.

Ms RATTRAY - The member might like to support the amendment.

The Committee divided -

AYES 9	**NOES 4**
Ms Armitage	Mr Dean
Mr Gaffney	Mrs Hiscutt
Ms Lovell (Teller)	Ms Howlett
Ms Rattray	Ms Palmer (Teller)
Dr Seidel	
Ms Seijka	
Mr Valentine	
Ms Webb	
Mr Willie	

Amendment agreed to.

Proposed subclause 60P, as amended, agreed to.

Proposed subclause 60Q -
Contents of declaration of major project

First amendment -

Ms WEBB - Madam Chair, I move that proposed new subsection 60Q(3) be amended by -

Leave out subsection

This amendment relates to the really central theme of this bill, which is to take the politics out of planning. It is also around simplicity, clarity and again something that I think is very important here is to maintain public confidence.

This amendment by removing proposed new subsection (3) simply removes the minister's power to influence the appointment of a member of the panel. If the minister exercises the power this proposed subsection would give him or her, it would override the commission's ability to appoint people with particular expertise under later sections of the bill. In that sense,

it could be seen as the political overriding the independence of the commission selecting what is needed on the panel.

There are no other functions where the Minister for Planning determines who should be on an assessment panel. It is not within their expertise, it is within the commission's expertise. That is why they have been given that function in other aspects in this bill, to determine and select who is on the panel in other circumstances later in the bill.

What I would ask is - why is this proposed subsection (3) here? Why are we giving this power to the minister of the day not to suggest, but actually to prescribe, a set of qualifications and experience that must be on the panel?

I know the Government will be saying that to do that is not allowing the minister to choose the person who will be on the panel. That is true - it is very clear that the minister is not choosing the person who ultimately sits on the panel. That point will not need to be made exhaustively to us. What it does allow is that the minister specifically outlines skills, qualifications and experience of a particular nature that must be there. In a sense we can conceptualise a time that, in specifying qualifications and experience to a particular degree, that could very much limit who might fit within the description of those qualifications and experience.

While the minister is not choosing the person who will be on there, the minister is potentially quite tightly specifying and prescribing a very limited number of people who may be put into that position by the commission. I think that is inappropriate. I think a case has not been made for why it needs to be there as a power of the minister. It does not need to be there. The commission can quite readily, under other parts of this bill, identify what is needed on the panel in terms of qualifications and experience, and the commission is best placed to do that for two reasons.

First, because they are the experts - they are the experts in putting together panels to do assessments, which is what is happening here. They know what is needed, the know the mix of skills and qualifications that would be required for whatever particular project was to be contemplated here.

The second is equally important. Not only are they the experts, they are actually the right people to do it, because they are the independent entity to be doing that determination of the make-up of the panel - both in the skill mix, but importantly also in allocating exactly who the person or people will be on it.

It is entirely inappropriate for both those reasons for the minister to be given the power to prescribe this. The minister is not the expert in these planning processes, despite being the Minister for Planning, but the expert in doing it - not the expert in deciding what skills and qualifications is the right mix.

The minister quite certainly is not independent in the sense of making this decision. He is not independent. It is a political action any time the minister decides something, or prescribes for something to be done. So, this proposed subsection (3) overtly inserts a piece of politics into this bill for no good reason. There are better ways and more appropriate ways for the skills and qualifications of the panel to be decided and seen to be appointed upon, so that is why I have moved this amendment.

I hope members will assist me in passing this amendment, so that we do one more small thing to ensure that the intent of this bill, in taking the politics out of planning, is actually given best effect to.

Mrs HISCUTT - This matter is only applicable to the fourth or fifth member of the panel that the commission appoints. Most projects will only be assessed by a three-member panel, as is the current practice by the commission with their work. In essence, this provision has little work to do, and as such, the amendment is not supported. When the minister consults broadly before declaring, he or she may be made aware of specific skills that could be required. It makes sense to ensure that the appropriate skills are added. We do not support the amendment.

Mr VALENTINE - I agree with the member for Nelson. To be quite honest, we talk about taking the politics out of planning. You have to have the politics in there, otherwise you do not have group politics, if you like, or councils, because they represent the people and the people's opinions. The problem is one minister - it is only one minister. It may be a minister approving a project in an area that the minister is not even represented in. The minister has no accountability. I think taking the minister out as somebody who is going to suggest what expertise is needed is a positive step. It will stop people from having a go at the minister, saying 'you have orchestrated something'.

Because it is a single individual we are talking about here, the minister, it may be about a project that is not in the minister's area. It leaves him or her open. We are talking about any colour of government here. It leaves them open. I think it is a good amendment.

Mrs HISCUTT - I take issue with one little thing you said, member for Hobart. State governments of any colour represent the people as well as the local government. Within local governments, we are all quite aware there is plenty of politics played there as well. That has nothing to do with this amendment - I just had to say that. As such, my comments still stand. The amendment is not supported. The minister does consult broadly. If the minister has identified a skill, that can be offered.

Ms RATTRAY - Madam Chair, I am leaning towards supporting this amendment. I want to give a couple of reasons why. We want this legislation to work. We actually want major projects to come forward and be used under this legislation, otherwise we are wasting a lot of time if we are not endeavouring to do that. I actually believe that it would. I think the minister should be pleased that we do not want the minister as part of that process. It actually puts them at arm's length of who would be independent and have the expertise. I am not offended by it all, I think it will actually be useful.

Again, I take it back to the fact that we want this used. If there is confidence in the process, then I think people will get on and do things. That is what I want to see. I am going to support the amendment.

Mr VALENTINE - If I can respond to a comment the Leader made in response to my comment - it is in relation to taking the minister out as a decision-maker here, or putting forward the skills. I am totally aware politics are played in a council. But it is the nine, 10 or 12 people around the table who keep each other honest. It is a democratic circumstance. You have one minister and it is only the minister. There is no other way of making sure the minister is not being influenced in some way. The whole council is a different story. I make that comment. I support the amendment.

Mr DEAN - I think you said that, in the first instance, in the Tasmanian Planning Commission, it is normally three - is that right? It is only when there will be four, five - is that what you are saying?

Mrs Hiscutt - That is only applicable to the fourth or fifth member of the panel.

Mr DEAN - The fourth or fifth members, but most are. From that, I take it there would be a greater number on the panel for more complicated complex matters. Is that right.

Mrs Hiscutt - That is correct.

Mr DEAN - The minister - I am concerned when it is implied that people are going to shelve up positions to suit the position they want and so on; it concerns me when I hear of that line. A minister is not, in my view, going to select a person on a panel of four or five people to try to swing a position their way or a government's way.

Mrs Hiscutt - It has to be skills-based.

Mr DEAN - That is right, and the next point I was going to make. A certain criterion has to be met when these people are selected to be on this panel and the minister is not going to do it. The minister would be taking advice from the appropriate people around them to make the selection of that person in the circumstances.

I cannot see any good reason why that, as it currently is, is not a reasonable position in all the circumstances. I cannot for the love of me see why it is not. I would think the minister has a huge responsibility in this and under this bill and in major projects and so on. No minister is going to make a silly damn decision likely to bring the whole thing undone. I cannot see that happening.

You talk about local government and 12 people there keeping each other honest. Local government is honest. The people around the table are honest. Every now and again we have somebody who might fall over for whatever reason. I get upset and annoyed at those sorts of comments being made because I do not know of too many dishonest people around that council table.

Mrs Hiscutt - We all try to do our best.

Mr DEAN - Or need for that to occur. People have different views, different opinions and so on. We need to look at it closely as to why it is there. If I were a minister in this area with a very large complex matter that fits in this - a major project -I would want to have a voice probably on who was to be on that panel or on the commission at that time. The appropriate skills-based person who has the capacity and ability to be there and going to help them. It is simply one person on the panel of four or five. If one person can influence improperly - and what is really being implied is that a development would get up et cetera - that is being unreasonable in all the circumstances.

I urge members not to support the amendment.

Ms RATTRAY - In response in to the member for Windermere, I was not in any way by supporting the amendment suggesting a person appointed by the minister might want to

influence the panel. My support is because to my mind it makes for an independent process, which is what we are apparently trying to achieve here. I want to put that on record.

Mr Dean - Who else is going to appoint those other two? Who else is appointing them? Are they going to do it right?

Ms RATTRAY - I would like to very much suggest, Madam Chair, that the TPC would appoint the appropriate person, but I just wanted to make that point.

Mrs HISCUTT - In answer to that, proposed new section 60Q(3)(b) says -

> requiring the Commission to, under section 60W(4), appoint to be member of the Panel at least one person who possesses such qualifications or experience.

This is what we are talking about. That is there to ensure that if those skills are not in the three commissioned members, the commission can direct there is a fourth member with the extra skills. It is as simple as that.

Ms LOVELL - Madam Chair, I am leaning towards not supporting the amendment really on the basis that what this clause is allowing is the minister just to specify qualifications and skills, rather than a particular person. I would feel differently about it if the minister were nominating a particular person, but because it is just really there specifying the skills and qualifications that are required, that person then will be found, selected and appointed by the commission, rather than by the minister.

I am actually quite comfortable with that, and on that basis will not support the amendment.

Mr GAFFNEY - Madam Chair, I look at this as the minister having ownership of the project. They have to give that responsibility to somebody. I suppose it is a bit like the buck has to stop somewhere. I think the minister, in that portfolio, in that area, has that responsibility. With this, as the member for Rumney said, it is the minister who will appoint, but it is selected through a process of how they want to do it with the TPC. It is very hard to say the Tasmanian Planning Commission may make a declaration because that is three people. In some of the areas, it is the minister who will take responsibility for this portfolio. I did not have a problem with this at all. I will not be accepting it.

Mr VALENTINE - I just need to clarify something; I think it is my third call. I hear what the member for Windermere was saying. I was not trying to cast aspersions on elected members; I was just simply saying that in a political sense, there is that balance of opinion around the table. It is not just one person. When I said keep each other honest, I meant it in a sense of politically. That is okay.

I hear what the member for Mersey is saying. Again, if the commission is not aware of what skills are required to be able to properly assess something I do not know which body would be. It is just an unnecessary thing to have, a minister saying these skills and these skills are necessary. He or she is not an expert, whoever the minister of the day is, they are not necessarily an expert.

Mrs HISCUTT - Before you get to this point, the minister has consulted widely. It might have been told to the minister early in his consultation, you are going to need an aerodynamic engineer to be able to consult with this particular project. That could have happened earlier. It depends on what the project is, who has been talking, who has been consulting. The minister would have a fairly good idea - based on advice that is given to him - what skill set to ask for.

Ms WEBB - I thank members who made contributions. It is useful when given a few things to reflect on. First, the Leader has just made an interesting point, that there is the identification of this skill set and then the minister requiring that it be put into the panel based on consultation and advice in that earliest stage prior to declaration. That is an entirely unaccountable process, undocumented in the sense that we do not know, as a public, who the minister has consulted with necessarily in the full extent.

We do not know what particular advice. We know who he is required to consult with, or she, we know that, but we do not know who else, above what is required the minister has done in ways of consulting and of seeking advice. We do not know what, from that mix, either required or otherwise, and we do not know what advice has been provided. That is not documented somewhere. What is documented is the minister's decision to declare and the reasons for it. We do not know.

If the minister's decision to require particular skills, qualifications and experience is based on hidden, unknown, undocumented consultation and advice, that is even more disturbing actually, even more disturbing. It is fixed to the point that the minister is the wrong person to be requiring a presence on the panel in a very particular way that may be quite prescriptive into who that might be in the end. Not because they are choosing them, but because they are prescribing the limits of the skills and qualifications that are there.

What I point out too, picking up on something the Leader said earlier in response to another question, the minister seemed to imply that this could somehow be about filling gaps on the panel. It absolutely cannot be about that because this is happening at the earliest stage. It is happening at the stage of declaration so we have no idea who else is going to be on the panel at this point in time. We have no idea yet. This is the minister making this prescription, this requirement, before having any idea who else is going to be on this panel and having no capacity to think and give and put their mind to the mix, the appropriate mix that will be on there. The minister is making the decision up-front at the point of declaration, not at the time that the broader mix of skills of the panel are being considered and given effect to by the TPC, which remains the absolute expert - and independent expert at that - to deliver the right mix of skills.

Ms Rattray - And have the power under proposed new section 60W to appoint members to the panel.

Ms WEBB - Indeed, and the fact that this only applies to those fourth and fifth positions on the panel is particularly important. Those positions will not be filled in all circumstances but we can imagine that they will be potentially filled in particularly complex circumstances when a broader mix of skills is required. That is when it is even more important that the mix of skills is given good strategic thought to and that can only happen when the panel is being put together, when the TPC is giving its mind to who needs to be on the panel, under proposed new section 60W, is making selections about those people.

It does not matter that there might only be some instances in which this comes into effect because not all panels will have fourth or fifth members. The scale of the effect of this amendment is not the relevant point here. We do not excuse things because they only happen every now and then. This amendment is important because it gives the power. It does not matter how often it will be exercised, it gives the power to the minister that is an inappropriate power and an unnecessary power. The selection that is happening, the decision about a particular set of qualifications and experience is best made by the TPC giving thought to the total mix.

We could have a situation, in fact, where the minister has prescribed something here in terms of skills and qualifications and come such time that the TPC is populating the panel under proposed new section 60W, the fact that a particular qualification or skill is being prescribed here means they cannot include something they believe is important to have on the panel because the spot has already been taken. A spot has already been allocated to a skill or experience which we do not know, but the TPC would have chosen in considering the right mix on that panel.

This is not just individual instances of prescribing particular positions on the panel. It is also about hindering, constraining the appropriate consideration of the right mix of skills and when that should be done in this process.

I also reiterate comments that this is absolutely categorically not any inferred bad faith in the minister. This is absolutely no suggestion that bad faith would be exercised. It is no suggestion that there is anything dishonest. It is certainly not about any suggestion that ministers would make silly decisions - which was another suggestion - it is not about that. This is about good governance. This is about taking the politics out of planning. It is about deciding who is best placed to make a decision about the panel and the mix of skills that will be on that panel and who is best placed to do that. As I said, it has to be contemplated in two ways.

One is, who has the expertise to do it and who is most appropriate from the governance point of view to do it? And neither of those is the minister. Both of those are the TPC, so I am going to encourage members to support this amendment. I think it is a disturbing addition in the bill. It is an unnecessary part of the bill. There is no necessity to give this power to the minister, none at all. There is nothing lost at all to this bill and this process if this power is not given to the minister, if this proposed new subsection (3) is taken out. Nothing is lost - but what is gained is highly important: it is the tangible perception of good governance, accountability, probity, transparency. That is highly important with this bill. We need to think about the fact - as the member for McIntyre said in her contribution - that we want this legislation to work. I entirely agree that. We do want this.

Ms Rattray - Otherwise we are wasting our time.

Ms WEBB - Indeed. We want this legislation to work. We want the process to give legitimacy to the projects that come through it. We want this process to promote a social licence for the projects that come through it. I encourage members to think about this amendment, removing this power that has been given to the minister, as being a really key way we can assist that part of the bill, giving it legitimacy, giving it greater opportunity to build social licence - rather than, by leaving it in, giving a clear opportunity to drive anxiety, division and consternation in the general community any time this power is exercised, no matter how infrequently that might be.

I encourage members to support the amendment.

Mrs HISCUTT - It is skill set. All we are talking here is skill sets, to be able to do the job, to assess the project.

Ms WEBB - I am going to make a correction there. What we are talking about here, with this amendment, is not skill set, it is about giving a power. What this proposed subsection (3) does is confer a power to the minister. That is what it does. A power to prescribe - not suggest, or put forward, or advise, or ask to consider. It prescribes a skill set and qualifications that must be on the ultimate panel that will be making the assessment of the project and the minister is, in the same action, declaring he is allowed to be in the process. That is what we are talking about. We are not simply talking about a skill set.

If we were simply talking about a skill set and we asked ourselves who is best to decide on that skill set and the mix of skill sets, our answer would clearly be the TPC. Clearly. They are the experts. They are the independent experts. They are clearly best placed if we are just talking about identifying skill sets.

What we are talking about with the amendment, with subsection (3), is a power being provided. I am suggesting to you it is an inappropriate power, and it is an unnecessary power.

We are absolutely delivering a better outcome to the community, greater public confidence, and a greater prospect of a successful social licence for any project that goes through this process by removing it, and not granting that power to the minister. Please give that some consideration.

I ask members to support the amendment.

Mr DEAN - I just ask the question of these members who are saying that this bill will not work, or might not work if the minister has that capacity to appoint a person in this position. That has been raised now a couple of times, we want this bill to work. Well, the fact that the minister is going to appoint somebody to this commission in a very complex and an involved situation is not going to take anything away from the workings of this bill, for goodness sake.

I agree. I think it was the member for Mersey who said, where does the buck stop if something goes wrong in these situations? Where does the buck stop? Not with the commission, not with anybody else, it will stop with the minister, whether they want it or not. That is where it will stop. It has to be skills-based. Why would a minister appoint a person to the panel or to this commission where criticism would be intense and immense in this Chamber and the other place too, I suggest, and just about everywhere else. It would be watched and looked at very closely in all circumstances. It is not something that will be taken lightly. Any minister who would take a matter like that lightly is not going to be in the job too long.

I cannot see the reason as to why and I cannot see any reason as to how it makes it better. I agree, perceptions at times, and I guess to a perceiver perception is reality. I remember the old times when that bell would sound at this time and zip we would be out, gone. That is going back a few years.

Madam CHAIR - Focus, focus.

Mr DEAN - I am focused again.

There is nothing wrong with the way it is written in the bill for the minister to have a say in it. It is not all the time; it is only where there are four and five members on the panel. Normally, there would be a three-person panel who would be determining matters so I really cannot see where it is an issue. I will certainly be sticking with the bill as it currently is.

The Council divided -

AYES 5	**NOES 8**
Ms Armitage	Mr Dean
Mr Gaffney (Teller)	Mrs Hiscutt
Ms Rattray	Ms Howlett
Mr Valentine	Ms Lovell
Ms Webb	Ms Palmer
	Dr Seidel
	Ms Siejka
	Mr Willie (Teller)

Amendment negatived.

Proposed new subclause 60Q agreed to.

Mrs HISCUTT - Madam Chair, I suggest that we report progress for the purposes of a dinner break because it is obvious we are going to be here late and the later we are, the more it affects the staff. I would like to report progress and seek leave to sit late.

Ms RATTRAY - With regard to proposed new section 60 of 100 or whatever: I know we cannot rush these things, but does the Leader intend to work through until the early hours of the morning? I think members need to know that. I would be interested in knowing that before we break for dinner. Thank you.

Mrs HISCUTT - I would think that the member for Nelson's amendments are a bit related and may not take all night to prosecute. I am looking at the member for Nelson -

Ms Webb - I am just doing a quick count. Some of them are now redundant because they were consequential, but there is still a reasonable number.

Madam CHAIR - I remind members that any member at any time can seek leave to report progress. It is up to the Chamber to resolve. The Leader can express her intent here and give us an indication but it is up to the Chamber.

Mrs HISCUTT - I express my intent. My intent is to get as far as we can.

Ms RATTRAY - Before the House decides enough is enough.

Progress reported; Committee to sit again.

Sitting suspended from 6.09 p.m. to 7.05 p.m.

LAND USE PLANNING AND APPROVALS AMENDMENT (MAJOR PROJECTS) BILL 2020 (No. 26)

In Committee

Resumed from above.

Madam CHAIR - Before we recommence, I remind members of a couple of Standing Orders to help us to avoid some of the things that may be in contravention to our Standing Orders. Standing order 99 says -

> A member shall not on the course of debate -
>
> …
>
> **Comment on expressions by other Members**
>
> (5) digress from the subject matter under discussion, or comment upon expressions used by any other Member in a previous Debate. All imputations of improper motives and all personal reflections are disorderly.

I am not suggesting this has been going on, but it gets a bit close at times.

Standing Order 100 refers to repetitious or irrelevant debate, so let us avoid repetition where we can. Make your point but avoid repetition. It can slow things down considerably and not make new points, especially you, member for Mersey.

Proposed new section 60Q agreed to.

Proposed new sections 60R to 60V agreed to.

Proposed new section 60W -
Appointment of members of Panel

First and second amendments -

Ms LOVELL - Madam Chair, I move proposed new section 60W(1)(a) be amended by -

> *Leave out* 'or another person'.

I further move that proposed new section 60W(1)(b) be amended by -

> *Leave out* 'or another person'.

This amendment was moved by my colleague in the other place. It was amended and then the amended amendment ended up with what we now have in the bill. This is to do with

the appointment of members of the panel and about ensuring members on the panel are members of the planning commission.

Proposed new section 60W(1)(a), which is for the first member of the panel, now reads -

> (a) a member of the Commission, or another person nominated by the Commission, who is to be the chairperson of the Panel; and
>
> (b) member of the Commission, or another person, nominated by the Commission; and
>
> (c) a person who is not a member of the Commission and who, in the opinion of the Commission, has qualifications and experience that are relevant to the assessment of the project.

It is related to the amendment we discussed prior to the break in relation to the independence of the panel.

A concern has been raised by members of the community and stakeholders. The planning commission is an independent body and people are very keen to see that independence transfer through to the make-up of the Development Assessment Panel. As it stands, the bill allows the commission to appoint either a member of the commission or another person who may or may not be a member of the commission.

I would prefer that the panel consists of two members of the commission and then additional people as required, depending on other parts of the bill as they come together and what else is required in terms of assessing that project. That is the intent behind the amendment.

We would prefer that the members of the panel are commissioners and that is about maintaining the independence of the process of assessment of major projects, balancing that with the right mix of the relevant skills required to assess that project and again, it is about addressing that community concern around this process.

Mrs HISCUTT - The Government thinks it is strange that the member would raise these amendments here. The constitution of the panel was debated quite extensively during the Committee stage in the other place. In that place, Labor proposed an amendment to these clauses and those amendments were amended during the debate, resulting in the version that currently appears in the bill, which was agreed to by all.

The current wording in the bill is deliberate as it allows for the commission to delegate its powers. As was clearly explained by Mr Fischer and Ms Hogue of the TPC in the briefing yesterday, this is the standard way the commission works as it appoints people to panels to undertake assessments. As was explained yesterday, commissioners routinely delegate their powers to senior commission planning advisers to undertake assessment and hearings. It is standard practice.

What you are proposing is contrary to how the commission operates in the performance of its statutory duties and would restrict who could be on the panel to a very small pool of

people. Of the eight commissioners, only six were able to sit on panels by virtue of the other roles that they hold and, of those, only four currently sit on panels or conduct hearings. Currently, one of those four is the general manager of the Launceston City Council and it would be extraordinary to anticipate that he gives up a few months to assess a project.

Two commissioners are actually not allowed to be part of the decision-making panels because they are government representatives. This is one of the reasons for the review of the TPC to reconsider the appropriateness of its membership now that there is a separate government planning agency.

Given the workload of the commission and the number of assessments and hearings it is currently undertaking in regard to the planning scheme amendments and the approval of local planning schedules, it is quite possible that the commission will be struggling to find one commissioner available to sit on a panel. It would certainly have an impact on their other statutory roles and responsibilities.

If we want to get technical, the proposed amendments also allow for State Growth and TasWater representatives to be appointed to the panel under proposed new section 60W(1)(b), which is inconsistent with proposed subsection (2). In summary, what the member is proposing would unreasonably restrict who can actually sit on the panel, and it is also inconsistent with how the commission actually works.

As you can imagine, the Government will not be supporting these amendments. We urge members not to support the amendment either.

Amendments negatived.

Third amendment -

Ms WEBB - Madam Chair, I have a couple of additional amendments to this proposed new section. I move proposed new section 60W(3)(a) be amended by -

Leave out ", urban and regional development, commerce or industry".

Insert instead "or urban and regional development".

This amendment is about removing perceptions of bias or favouritism to some extent. It is about transparency and building public confidence.

Proposed section 60W(3), in its entirety, connects section 60W(1)(c), where the description is about the third member of the panel and who that could be -

> a person who is not a member of the Commission and who, in the opinion of the Commission, has qualifications and experience that are relevant to the assessment of the project.

This is the third member of the panel. They are definitely a non-commissioned member. It is to put relevant qualifications and experience into the mix. Proposed section 60W(3) tells us what those appropriate qualifications and experience might be. Actually, it does not tell us what it might be, it tells us that it must be one of these things. It says -

A person has appropriate qualifications and experience for the purposes of subsection (1)(b) if the person has -

What is to follow can be considered appropriate qualifications and experience -

(a) qualifications or experience in land use planning, urban and regional development, commerce or industry.

Then, just for relevance, (b) goes on to talk about -

practical knowledge of, and experience in, the provision of building or other infrastructure.

What is captured across those two is that the person who fills the third spot on that panel must have something from that mix. I suggest that commerce or industry is an inappropriate inclusion in that fairly limited list of qualifications and experience from which that third person must be drawn.

I think it is entirely appropriate that experience in land use planning, urban and regional development is in (a), and remains in (a). I think it is appropriate that (b) has practical knowledge of provision of building and other infrastructure. That is good. Commerce and industry is not a core skill to this planning process. It looks like it is weighted on one side - towards a proponent, for example.

I think the perception could be - because it is exclusive, what is in there must be drawn from there - it looks like that could be weighted. I do not think it is needed. I suggest it would not be the norm to have industry represented in assessing planning permit applications. That is what it sounds like when it says commerce or industry.

The Government has said the panel is undertaking planning assessments. If that is right, the commission should be able to appoint the mix of skills that it feels is appropriate in each instance it is putting together one of these panels, which it does separately each time for any project coming through.

The reality is that, if the minister felt it was particularly important that skills and qualifications relating to commerce and industry were represented on the panel, we have left the power in this bill for the minister to prescribe that at the stage that the minister declares the project.

The minister could declare that, then that could be considered for one of the other positions on the panel, the fourth or the fifth one. If it was identified by the government of the day via the minister that for that particular project, or the minister determines because of consultation and advice, that those skills are needed, that could be there. There is a way it could be there.

We do not need to put it here amongst this small list of what should be very relevant to the planning process - the mix of qualifications and experience.

The Government in some response to these amendments earlier as we were consulting suggested the inclusion of these words 'commerce or industry' was a way of broadening the

skills of the panel. I suggest the skills of the panel have enough scope to be broadened, without specifying this particular skill mix in this particular way as I have just described. The minister can put them in. The TPC itself in determining the rest of the mix can put them in. It looks like it could be biased. In the interests of building public confidence it is a good way we can make this bill look cleaner. That we can make it look like it really is taking the politics out of planning and not making things weighted one way of another.

Mrs HISCUTT - Social and economic considerations form part of the objectives of the RMPS which means they are a valid consideration with respect to making planning decisions, especially with larger projects. Economic and social effects are specifically referred to in 1(d) and 2(c) of the RMPS objectives. Also, in the Planning Commission establishment, section 5, talks about the constitution of the commission and it says the commission consists of (a), (b), (c), (d), and it gets to (e), it says -

> A person nominated by the Minister, who in the opinion of the Minister, possesses planning experience and appropriate experience in industry and commerce.

This is a relevant skill set for planning matters and it really should be there. Well, it has to be there because it is very relevant. I urge members not to vote for this amendment.

Mr VALENTINE - If that is in the commission already and it states it has that sort of skill, why is it necessary to have it in the bill? You just read out what constitutes the commission and I cannot remember exactly the words, but it says the commission *x, y, z* and there is no need to have it here because the commission has got that skill set.

Mrs HISCUTT - It is a relevant skill set but that person might not be available because he is somewhere else. They are not all just there available for this one particular project that we are talking about, so you have to have a representative there who has the experience in commerce and industry or industry and commerce however it is put. There has to be somebody on that because it is a relevant skill set.

Ms WEBB - To clarify, this does not say someone with that skill set has to be on it. It is not what the inclusion of the words at this spot says. It means, as I described, that everything in subsection (3)(a) and (b) is the pool of qualifications and experience that have to be drawn on for filling the one spot in (1)(c). They have got one spot to fill there. They can think about picking somebody with qualifications and experience in one of these areas in what is covered by (a) or (b). It is exclusive in that way as in only things covered in (a) and (b). It is really interesting you made the point that from your perspective it is a very relevant skill set, commerce and industry. You read me a list and I wonder if it is really important to have the availability here and so, with things listed here in order to be available to choose from, what else is missing from either (a) and (b) or from this subsection that would provide the opportunity should it be required that somebody from that skill set that is not here now, could be put into that panel at that third position?

If commerce and industry is very relevant and therefore warrants being there, what else is very relevant and warrants being there that is not there now? If that is the argument we are going to make, then we are going to have an interesting time talking about the next amendment.

If that is the argument that warrants leaving commerce and industry in here, when we get to my next amendment, that is the argument that supports my amendment. I am flagging that now. We are going to be dealing with the same subsection for that.

I will be interested to hear why the argument stands at this time and does not stand in the next instance when there is an availability to fill a spot relating to those qualifications and experience if the minister so chose to prescribe it and if the commission did want to choose to do it too, in the fourth or fifth spot.

Mrs HISCUTT - So, in one point towards the end there, you are saying that if you want that skill set, you might have to have a fourth member but if the skills are there, you might not.

Proposed new section 60W(3)(a) says -

> qualifications or experience in land use planning, urban and regional development, commerce or industry …

Those skill sets have to be there. The commission is the one that selects this person no matter what. It is an appropriate skill set to have there and it is up to the commission to appoint that person.

We are talking major projects here and that is a very relevant skill set. I urge members to vote against the proposed amendment.

Ms WEBB - It is fine to make the argument that it is a relevant inclusion. It does not mean that it has to be on the panel. Being there does provide the option, so my argument is, if it provides the option, where are the other things that should be provided as options in this? Why could not that option be captured in the fourth or fifth member of the panel?

We do not need to pick and choose which ones will get special attention by being included in here and become part of the third member, which are always going to be there, as options for the third member. This is really important, what options we have to pick from for that third member of the panel. That is constrained by this (a) and (b).

The third member of the panel must have one of the things covered in (a) and (b), at least one. So everything we list here can be considered in the terms of the qualifications and experience, and anything that is not listed here, cannot be. It is important what we include here in proposed new subsection (3).

I am not making an argument that commerce or industry would in no instance be considered relevant. I am arguing that if we are going to have a very limited list that looks like it is biased towards one direction and not another, it does not need to be there. It can be covered through the fourth or fifth member of the panel.

I will leave it at that and encourage honourable members to think about it, and hopefully, also in relation to the next amendment.

Mrs HISCUTT - It is entirely linked to the objectives of the bill and it is totally up to the commission. It has to be there. There is not much more I can add to that. It is commerce

and industry. That is what a major project is and I urge members to vote against the amendment.

Amendment negatived.

Fourth amendment -

Ms WEBB - Madam Chair, I move that after proposed new section 60W(3)(b) -

Insert the following paragraph:

> (c) qualifications or experience in environmental science, environmental management, ecology, environmental and public health, Aboriginal cultural heritage or historic heritage.

This amendment is absolutely linked to the one we just discussed, and follows on from the Government's rationale for commerce and industry being in the first one, because subsection (3), and what is listed there in (a), (b) and what I am proposing to be (c), absolutely define, as a list, the only qualifications and experience that can be considered as appropriate for the third member of the panel. This ensures that in that list the TPC has the breadth to pick from to get the right mix on the panel.

The Government says the panel's assessment is the equivalent to a tribunal in a sense. The tribunal has to be appointed with expert members. That expertise is prescribed in section 6 of the EMPC act. This is the list that it includes for tribunals: planning, resource economics, science, engineering, environmental management, architecture, environmental and public health. This panel is required to assess complex information. It could need to draw from a whole range of different disciplines to do that in a quite essential and relevant way.

This amendment simply does not mandate anything. It does not say anybody with these qualifications has to be on the panel. It does not force the TPC to choose anyone from this list. All it does is make the qualifications and experience listed here in (c) available for the commission to consider when it is looking at its third member of the panel. That is what (c) does. The Government is likely to say that will be in some form a duplication of the fact that relevant regulators are involved in this process. Let us just unpack that a little.

I think the concern there, if that line of thinking were to be accepted, is that having somebody with something from this list, which might correlate to one of the regulator functions, could provide some opportunity for second-guessing or for repetition in what is considered, or in the consideration of what comes through the process. I think that is a simplistic way to look at it, really. I think regulators have a very particular role, a statutory role, the way they undertake their assessment, then make their determination. With some of them, if they provide advice, it can be considered but ignored. Others must be taken on board. Regulators vary. They have a particular constrained role.

What the panel does is not completely comparable to what the regulators do. It is similar, but not directly comparable. The panel has to take a whole range of information, when they are making their assessment, that relates to these projects. It has to take the information provided by the proponent, the assessment that is done, then take whatever relevant advice

comes from regulators. It has to take on board the public consultation phase before making its final assessment. The panel has a very broad-ranging look to make its assessment and determination. It is not the particular confined role of the regulator having their statutory involvement. It is beyond that. If there were to be some doubling up in the sense that somebody on the panel happened to have qualifications and experience in a field that correlated to a regulator - that is not problematic, it is not second-guessing, it is saying - we need to go to the regulator to get their official statutory input and on the panel to consider the totality of this, we need to have this experience. The people who have made that decision about the experience on the panel is the TPC, so it is the expert determination that is needed.

This amendment does not tell the TPC they must. This amendment provides the TPC with a broader pool of the qualifications and experience they could choose from, that is all it does. I encourage you to think about this in light of the argument for leaving commerce and industry in (a). I invite members to think of this in the same way it could be seen to broaden the opportunity the TPC has to pick from a pool of what could be considered appropriate qualifications and experience.

Mrs HISCUTT - The member for Nelson is absolutely right, it does cause duplication. The suggested amendment removes the ability for the assessment panel to consider social and economic impacts and instead serves to duplicate the skill sets of the regulator, which in effect limits the ability of the panel to make a balanced decision.

Further, it will create a panel consisting of three members with one of the members with no work to do because that person's work is being done by the regulator.

Ms Webb - The TPC has decided to do that.

Mrs HISCUTT - I hear the member saying it does not matter if it is duplicated.

Ms Webb - That is not what I said. I did not say it was replicated.

Mrs HISCUTT - It is duplication, we do not need it there. It is already there. I am sure you will correct me; I am sorry, I took a general understanding.

Ms Webb - I said it was not duplication, just to clarify, a different role.

Mr VALENTINE - I look at the objectives of LUPAA and see mentioned in here quite a lot that it relates to these matters mentioned in part (c) of the amendment. If you look at LUPAA Schedule 1, Part 1, the objectives in 1(a) are -

> to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;

Paragraph 1(d) is 'to facilitate economic development'. The one you had in there previously seems to be reasonable for that.

Paragraph 2 talks about sustainable development, 'development and protection of natural and physical resources' -

(a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and;

(c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

Seeing as the other one was left in, leaving these in rounds that out. It is totally in line with what is in the objectives of the RMPS system is the argument I would put on that.

Ms ARMITAGE - I agree it is important that a panel member ought to possess commerce or industry expertise, but as a matter of legislative construction, if you are going to prescribe one area of expertise, you should be prescribing others. To this end, the insertion providing for panel members to possess qualifications or experience in environmental science, management, ecology, health and Aboriginal heritage and historical and cultural heritage might be beneficial because, as the member for Hobart said, it brings it more in line, for example, with the Resource Management and Planning Appeal Tribunal Act 1993, which does prescribe these attributes.

I understand the amendment was negatived downstairs, but my point is that the major projects bill does not necessarily fit in nicely with other pieces of Tasmanian planning legislation, which could cause interpretative difficulty later down the track particularly when you are considering pieces of legislation that have primacy over others so I certainly support the amendment.

Mrs HISCUTT - The regulators deal with those matters, not the planning matters, so it is here; it is covered. It is duplication and it could create a panel consisting of three members with one of the members with no work to do because that person's work has already been done by the regulators. It is there, it is covered. We do not need to redo it and confine them into such a place. It is a duplication. I urge members not to vote for this amendment.

Ms WEBB - Just briefly to pick up on that point, let us remember the selection of these people on the panel, this third position, is done by the TPC. Ultimately when the selection is made from the mix of qualifications and skills that are outlined here in subsection (3) for the third panel member, it is the TPC who is deciding that. I think to suggest that the TPC might choose someone who is going to sit there and have nothing to do is a fairly ridiculous suggestion, quite frankly.

They are choosing the third member, giving it consideration in terms of what they as experts believe is the appropriate skill mix for a panel to have to give consideration to that particular project. Remember, this is very tailored to whatever the particular project is. At this stage also we do not know exactly what the scope of projects might be that come through this. So to constrain the third member of the panel to only having to have one of the things at the moment described in (a) and (b) is extraordinarily narrow. It gives the TPC next to no options in a way in case they have to think more broadly than that.

Now, of course, there is the same argument that I used last time - they could use the fourth or fifth position and fill that. But there might only be one more position because the

minister might have prescribed one of those already and that has gone. That was decided right back at the beginning before we even knew the particulars of the project in detail.

The argument stands - this important third member of the panel is decided by the experts in the TPC, who presumably in their expert status will be choosing the mix of skills that they believe to be most relevant and appropriate and helpful to have there on that three-member panel. They are hardly going to be choosing someone they believe will be a double up or someone sitting around twiddling their thumbs doing nothing while the panel gets on with its work. In fact, given this concern that there could be some sort of double up, that there could be some sort of second-guessing, the TPC will have considered that.

For example, if they choose to put somebody on the panel from one of the qualifications and experiences in this list I am suggesting - let us say they choose to put somebody on the panel with an environmental science qualification or experience drawn from this list - now immediately we would think perhaps that is going to double up with the EPA - the regulator. Now if the TPC, as the expert people who are choosing this panel, decide to fill the third position with someone who has an environmental science background and qualifications, they have done that for a purpose.

They have done that knowing that the project is going to be looked at by the regulator, the EPA. The TPC will have done that in the belief that that is the right and best skill mix on that panel. All we are doing by including (c) is giving them the opportunity to do that. I would invite you to consider that this provides a positive opportunity for us to let experts do their job, especially given that we do not know yet what the scope of these projects will be.

Please consider this to be a very positive inclusion that helps experts do their job and delivers also more confidence to the community.

Mrs HISCUTT - Madam Chair, before I conclude, and I will try not to repeat myself, I go back by saying that proposed new section 60B lists project-associated acts and there are five of them - the Aboriginal Heritage Act 1975, the Environmental Management and Pollution Control Act 1994, the Historic Cultural Heritage Act 1995, the Nature Conservation Act 2002 and the Threatened Species Protection Act 1995. It is in there. This is a doubling up. I am not going to repeat myself any more. I urge members not to vote for this amendment.

Ms RATTRAY - Just a question in relation to how the member sees this work - do you expect that one of these experts identified in your amendment would review the work? Say Aboriginal heritage, somebody has done the work for the TPC - would that particular person with Aboriginal cultural heritage expertise then review the work that has already been done? I am interested to know how that would be done, and I guess how you decide whose work has the most validity. I am interested in how that might work.

Madam CHAIR - The member for Nelson only has one call left so if anyone else has any other questions for the member, I ask them to rise before the member responds.

Ms WEBB - It is a really good question. I just go back to something I said earlier and forgive me because I am going to repeat it in a context of answering your question.

Yes, let us remember that a project is there to be considered. The TPC as the expert body is appointing a three-member panel and choosing the mix of skills they want on that panel.

This allows them to choose from a broader range, and let us say in a particular instance they have decided that it is relevant to have somebody on the panel with, using your example, Aboriginal cultural heritage qualifications and experience. Yes, it is probably likely that that same project would be going to the regulator and the conditions that the regulator may put on the project as a result of its statutory assessment must be complied with, that is my understanding. That is quite an important one.

The role of the regulator is statutory and they have to give consideration to certain things and then provide conditions which must be complied with. That is the regulator's role.

The person on the panel who has been put there by the TPC specifically because they have Aboriginal cultural heritage qualifications and experience, has a broader role because their role on the panel is to be part of the assessment body of the whole project. That person has to give consideration to the totality of assessing that project. They will be looking at all elements of it including the conditions that have come from the regulator related to that area.

I would say that that is not doubling up because it is not entirely the same. It is quite a different role, a broader role, as part of the total assessment. There is likely to be experience that they are drawing on that is going to be similar and there is going to be an alignment there. But obviously the TPC as the expert body who appointed the panel thought it was important to have that at the regulator level to feed in the conditions and at the panel level to make the assessment.

I think that is the best I can say to you, that there is a congruence there but it is not a direct double up and it will be the TPC who decides that it is needed. All this does is give them the opportunity to do that.

Mrs HISCUTT - The panel is not there to determine all the other matters. The panel is a limited number of people who cover the planning issues. That is the panel. That is what the panel does, covers the planning issues. The regulators cover the project associated acts. They are separate roles. If you put this in here it will be a doubling up. The panel's position is to cover the planning issues. The regulator's issues are to cover the project-associated acts. Please do not vote for this amendment.

Mr DEAN - When you look at this 1(1)(c), do you need (3) at all? I say this because (1)(c), which is what this is talking about, says -

> The Commission is to establish the Panel in relation to a major project by appointing to be members of the Panel -

and if you look at (b), it says -

> qualifications and experience that are relevant to the assessment of the major project.

They can appoint anybody. They would be looking at these people who have these right qualifications to appoint to these positions. I am not sure why you need to spell it out at all, but it is certainly spelled in the way it is.

We do not need duplication in bills and acts of parliament. I have often raised that previously, that we do tend to do that duplication. Sections that are very similar and, to me, it does not do anything to make ease of reading and/or ease of ensuring they work properly and as they should work. I have some concerns there.

Once again, we have had the department looking at this for a long period of time - five years. I had an email or text sent to me a while ago about this. They have gone over this with a fine tooth comb. I am not saying there might not need to be some amendments. In fact, we have already had one get up and that is good but we have to give these people some credit for the work being done here.

We are now being told that this is superfluous, it is not necessary, it is duplication and all the rest of that. As I said, if you look at (1)(c) or (b), they can appoint anybody they want to anyway provided they have the relevant qualifications and experience to make a judgment on the matter the TPC is dealing with.

I cannot support the amendment.

Mr VALENTINE - The regulator is giving the regulator's perspective and the panel has to then take that in the context of the whole. If a situation where something like the Aboriginal body considered a regulator, they come back with a certain assessment of theirs and you have other Aboriginal people that have a different opinion. Let us face it, that can happen and probably will happen into the future.

Someone has to be there to be able to assess the response of the regulator too in that regard as to whether there is going to be concerns and considerations that need to be taken into account because of possible differences of opinion with regard to the regulator. Aboriginal is one and there might be other aspects.

Mrs HISCUTT - For clarification, the panel cannot override the findings of the Aboriginal heritage regulators.

Mr DEAN - I am not sure if I am right, but the commission when determining a matter such as this in this circumstance and the panel members, if an unforeseen matter of Aboriginal culture or some other issue came up that was not really considered or thought of, they are able to call that evidence in at any time they want to. They are not stopped from doing that. If they want that evidence to come in for the information of the panel and for them to make their determination on, they have every right to and I think you will find they have done it. If I am wrong, tell me.

Mrs Hiscutt - It is the same thing. With Aboriginal heritage, the panel cannot override the findings.

Mr VALENTINE - The panel cannot override the findings?

Mrs Hiscutt - The conditions put on.

Mr VALENTINE - Conditions put on what?

Mrs Hiscutt - On the Aboriginal heritage.

Mr VALENTINE - That is an interesting circumstance. It is something that might be very public and controversial with regard to the Aboriginal community. Let us take the bridge that was out past Brighton, where there was significant concern. It was agreed to and was going ahead, then all of a sudden -

Mr Dean - You are talking about the Jordan River crossing there.

Mr VALENTINE - Yes, I am. You take a circumstance like that. Are you saying that there is no way that a major project assessment panel, the DAP, or -

Mrs Hiscutt - It is not pertinent to this amendment.

Mr VALENTINE - How does the panel deal with that if it does not have the expertise on it, is my observation.

Mrs Hiscutt - It is because the regulators do that.

The Committee divided -

AYES 4	**NOES 9**
Ms Armitage	Mr Dean
Mr Gaffney	Mrs Hiscutt
Mr Valentine	Ms Howlett
Ms Webb (Teller)	Ms Lovell (Teller)
	Ms Palmer
	Ms Rattray
	Dr Seidel
	Ms Siejka
	Mr Willie

Amendment negatived.

Mr DEAN - Just to ensure I have this right. I was looking at (9) and (10) on page 72. This is where -

> (9) A member of the Panel in relation to a major project must, as soon as practical after he or she becomes aware that he or she has an interest (including a pecuniary interest) in relation to the major project, advise the Commission of the interest.

Then -

> (10) The Commission, as soon as practicable after becoming aware that a member of the Panel in relation to a major project has an interest (including a pecuniary interest) in relation to the major project …

they are to make a determination on whether or not that panel member should continue on the panel and/or leave it.

If it is deemed by the commission that the person should not be on it for whatever reason, is that panel member then replaced by another person? The interesting issue here is, if the commission is well through the process at the time that information comes to light, or that a panel member determines that they have got an interest, what would be the requirement then of that commission? Would they be required to go back and start the whole process again, or does the new member, coming onto the panel - I would suspect they would have to have similar qualifications and knowledge to the person on it that has had to leave the panel?

Some answers to those matters.

Mrs HISCUTT - This is a matter for the commission. It would have to work out how far through the process it is, whether it briefed a new member on all scenarios that are necessary, but it is up to the commission to do that.

Mr DEAN - Does the commission have to replace the member or can the commission deem that they can proceed with one member short on the panel?

Mrs HISCUTT - Without trying to pre-empt what the commission may do, you would presume that they would probably have to try to replace that person.

Mr Dean - That is a decision of that commission?

Mrs HISCUTT - That is the decision of the commission, yes. If they need a person, they will certainly do that, but that is their call because they are self-determining.

Proposed new subsection 60W agreed to.

Proposed subclause 60X -
Powers, procedures and liability of Panel

Ms FORREST - Madam Deputy Chair, I move that proposed new section 60X(2) be amended by -

Leave out the subsection.

This removes that delegation power of the panel as it is a delegated body of the commission. The Leader has already indicated support from the Government for this so I will not speak any further on that.

Mrs HISCUTT - Yes, we have expressed support for this amendment.

Amendment agreed to.

Ms WEBB - Madam Chair, I move that proposed new section 60X(3) be amended by -

Insert the following subsection -

(3A) The procedures approved by the Commission under subsection (3) must be consistent with Part 3 of the *Tasmanian Planning Commission Act* 1997.

This amendment is about consistency and ensuring procedural fairness and it is also about public confidence. It articulates something that we should expect is there but is not yet articulated in the bill.

Essentially, this amendment provides a safeguard. The commission can direct the procedures of the panel and this amendment just simply ensures that those directions do not limit Part 3 of the TPC act.

Currently, as the bill is at the moment, there is no bar on the TPC approving procedures in contravention of their own act. It is not provided for anywhere in this bill or in the TPC act that that could not happen. The reason that it is important is that hearing procedures are in Part 3 of the TPC act and it is critical that we ensure that hearings as a part of a process, public hearings and the open hearings that are had as part of the assessment. It is essential that people are very clear that they will always have a full opportunity to be heard as part of that kind of process.

This is basic good governance. It is to give certainty and confidence that all participants will be treated with fairness, that nobody will be excluded. Part 3 in the TPC act allows for the calling of evidence, allows for cross examination and allows new material to be submitted and obliges the commission to afford natural justice. Part 3 of the TPC act says that all those elements must be there in a hearing process.

I think we would agree that that is essential for it to be a good process as determined in good governance. It is really central to our system of laws that those elements are there as part of that public hearing process. At the moment there is nothing that says the public hearing processes in this major projects process must always comply with the requirements at that standard set there in the TPC act. They may well. It is the TPC who approves the procedures of the major projects process and they may well approve procedures that do align with their act but there is nothing that says they cannot do otherwise. This is really just about articulating a procedural fairness to ensure that there will always be alignment between this process and what is covered in part 3 of the Tasmanian Planning Commission Act.

I would think the Government would be supportive of the idea that hearing processes and all those key elements to procedural fairness are articulated as definitely being there in this process.

Mrs HISCUTT - Proposed new sections 60X(6) and (7) already provide for the panel to act in accordance with Part 3, which we have here in front of us, of the Tasmanian Planning Commission Act 1997 and provides for the relevant protections thereof. Proposed new section 60X(7) is there to ensure that the specific provisions of the major projects bill are not modified by similar but generalised provisions in the TPC act. It is simply to avoid any legal confusion.

For example, proposed new section 60ZZE(4) of the bill specifies notification of people about the hearings. So does section 10(2) of the Tasmanian Planning Commission Act 1997.

Section 6 of the Tasmanian Planning Commission Act 1997 applies to, and in relation to, a panel as if a reference in that part of the commission were a reference to a panel. That is in the major projects bill as we speak. Then you go to the TPC act which says in Part 3 that hearings are conducted by the commission. It is all there.

We definitely agree with you but it is all there so there is no need to put it in again.

Amendment negatived.

Proposed new section 60X, as amended, agreed to.

Proposed new section 60Y agreed to.

Proposed new section 60Z -
Relevant regulators

Mr VALENTINE - I am interested in proposed new section 60Z(5). Is the council being expressed as a person here? Does that incorporate a council as being a relevant regulator? The reason I am asking is that they control roads and things, and they would necessarily be a regulator in that regard, and I am wondering how councils have been incorporated as a regulator.

Mrs HISCUTT - No, the council is not included in this amendment, because this act is related to a project-related permit, so they were the other acts we were speaking about not long ago - the regulating acts.

Mr VALENTINE - For clarity, where is a council considered, when they are obviously controlling spaces like roads and those sorts of things which might be impacted by major projects? It obviously has to be somewhere in the bill, otherwise they do not get a say, and it is pretty important that they have a say if it is going to seriously affect their domain.

Mrs HISCUTT - They are consulted throughout the process, because they are a landowner, so that is already there.

Mr Valentine - But they are not actually the owner sometimes.

Mrs HISCUTT - The councils are generally consulted during these sorts of things, without a doubt.

Mr VALENTINE - I know I asked this question, but I want to get it on the record. For clarity, council has control of roads that sometimes run over private land, I believe - so where a road runs over private land, as long as the councils have a capacity to be consulted, even though the land is not theirs -

Mrs HISCUTT - I believe we covered this during the briefings.

Mr VALENTINE - You did, but I want to get it on the record.

Mrs HISCUTT - Where the council occupies or considers the land, yes, they are consulted.

Ms RATTRAY - Madam Chair, proposed new section 60Z(5), and I thank the member for Hobart for making me re-read that particular part, says -

For the purposes of this Act, a person is a relevant regulator in relation to a major project if -

And then it goes on. Is that a drafting sort of style - 'a person is a relevant regulator' - because we have the list of relevant regulators, and no-one identified as a person.

Mrs HISCUTT - Yes, it is a drafting style. That is the way it came from OPC.

Proposed new section 60Z agreed to.

Proposed new sections 60ZA to 60ZZ agreed to.

Proposed new section 60ZZA -
Initial assessment report

Ms WEBB - Madam Chair, I move that proposed subclause 60ZZA be amended by -

Leave out the proposed new section.

Now, stick with me while I talk through what I am proposing here and why. I would really like it if you could give it your consideration. This amendment is focused on restoring public confidence and acknowledging the public as a key stakeholder in this process. It also potentially, I think, streamlines this process to some extent. It is an important one in terms of fairness and the perception that people have been able to participate at the earliest point available to them.

The amendment simply removes the step from the process where the panel prepares an initial assessment report. There is substantial community concern that the panel, as a decision-maker, makes what looks to be an initial decision before it has had any opportunity to hear from the public. The bill, as it stands, provides for public notice and hearings after the panel has formed its view as to whether it would grant a permit to the project and on what conditions. That is what goes out as part of public input and hearings. This immediately casts the involvement of the public into a responding role to a decision that looks like it has already been made. It casts them into a role that can quite readily be an adversarial one, because they are arguing against something that looks like it has already been decided. Their input at that point will be framed as against an assessment that has already been undertaken and done.

The public is a legitimate and important stakeholder in planning processes and planning decision-making as it relates to the community. They deserve to be involved when things are being considered in the early stage before any decision or appearance of a decision has been made and to have their voice heard at that earliest stage. That would put them and their voice and their input into the mix at the same stage and level as the other information is being put into the mix, before decision-making occurs.

People affected by the panel's decision on a major project should be able to trust that the panel will bring a clear mind to considering their concerns in a pre-decision-making phase. If the panel already appears to have made a decision, the task for the public will appear to be insurmountable. How can the community have confidence that they can, in their involvement, persuade the panel to take a different view? Indeed, if the panel has made a decision, even an

initial decision, the public is then having to dissuade them from adopting a position that it already has put on paper that it holds.

This amendment is, in a straightforward way, about providing a process where the public cannot be faced with the appearance of a decision made before they have had their say and have their voice heard. The amendment basically says it can all happen in the same way that it is described in this bill except the panel does not put together that initial assessment report at that stage.

It has gathered the information it needed to gather in that early phase and then all of that goes out to public consultation and public hearings and the public have their say. At the end of that process the panel does what it says in the bill - it puts together its final assessment and report. That way it is quite clear that the assessment decision occurs after the community has had a say and had its voice heard.

What I am suggesting in removing this is that instead of the panel formulating that initial decision and making that initial assessment and then seeking a public comment, this is what they would publicly exhibit at that stage for public input and hearings: the major project proposal, the major project declaration, the major project assessment criteria, the major project impact statement, and the preliminary advice of any participating regulator that had had to be involved and provided advice or conditions.

The hearings would be run, representations would be sought in relation to those documents and that material around the project and, following that, the panel, as they do in the process, would make their final decision and assessment of the project. That means at that stage of the public exhibition of materials there is no appearance that that is an after-the-decision-is-made stage.

This will have an immediate confidence-building effect for the community as participants, and legitimate participants, genuine participants and stakeholders in this process. We are talking about major projects. We are talking about projects of scale and complexity, projects that have regional significance. This is projects that will have a large impact on communities and on the people that live in them. This is about your constituents and my constituents. These are the members of the community who want to be engaged in this, who want to be able to have their voice heard in this in a meaningful and legitimate way. That must happen at the earliest stage, before decisions occur. That is what this amendment provides for without disrupting key elements of the process.

Mrs HISCUTT - The intent of the provision in the bill is to be more transparent with the process and be able to show the public how the project is tracking against the assessment criteria, and what planning issues the panel is taking into account. Most major project proposals will be extensively documented. The initial assessment report can also act as a tool for the public to streamline their own inquiry into the project, if they so choose. The amendment processes retain the giving of preliminary advice from the regulators, but not the initial planning advice. It is the panel that gives the initial planning advice.

If the principle behind the objection to this clause is based on the perception that a decision has already been made by the panel, then providing the regulator's advice contradicts that principle because the regulator's preliminary advice could also be seen as having made a

decision already, especially with Aboriginal heritage or threatened species, as the advice of these regulators is binding.

The minister's declaration and assessment criteria could be already published and available on a website by the time this advice is given and the major project proposal will form part of the major project impact statement. Otherwise the major project impact statement will not make a great deal of sense. In essence, these documents do not really need to be named as something to exhibit. It is a way for the public to see which matters the proponent has covered easily and which matters may still be in contention. This provision is also consistent with the concept of a draft report prepared under the POSS process, also draft reports prepared by the EPA with their assessments.

In response to submissions made during the consultation, including the Environmental Defenders Office, the bill was amended at proposed new section 60ZZA(2)(a) with the inclusion of the requirement that the initial assessment report is to be based upon the information that the panel has available for them at that point in time in the process. The initial assessment report is not the final decision of the panel, nor representing a predetermined view of the panel. The proposed amendment is not required, and as such it is not supported.

Ms RATTRAY - Madam Chair, I have a couple of questions to the member proposing the amendment. Regarding the process the member outlined about what would still be provided to the public, I am interested in why you have a problem that would be referred to as a report. I thought proposed new section 60ZZA(1) does not talk about any decision that has been made or opinion. It is only when you go to proposed new section 60ZZA(2)(a) that you talk about the panel's opinion. I am interested in whether the member had considered leaving proposed new section 60ZZA(1) in? I think that it would be a report. You would need to gather all that information into a report to make it available to the public.

The contentious part is proposed new section 60ZZA(2)(a), where it says it -

> must include a statement setting out the Panel's opinion, having regard to the information that is before the Panel prior to the public exhibition ...

Am I looking at that right? Some of these other aspects of proposed new section 60ZZA could be useful for the public. I understand the member's intent about already having the panel's opinion there, so therefore you feel like you have to change the mind of the panel, if you have an opposition to something. I would like to hear what you thought about that because that is the only part of it that perhaps might put the community offside from the word go, if they were opposed to a project.

Ms WEBB - I am reluctant to use up speaks and not have any speaks left to get to respond to others who jump up later.

Ms Rattray - I tried to get everything in that one.

Ms WEBB - I appreciate that very much and will be trying to leave my third speak for as long as possible to be able to respond rather than not in other likely circumstances.

Let us pick up on a few things from that. We can start with that.

Ms Rattray - Is there a problem with (1)?

Ms WEBB - Essentially what you are saying (1) could do is cover the package of information that becomes exhibited and part of it. That is covered in some later amendments. If we were to pass this amendment and then we would go on -

Ms Rattray - That process would not be lost.

Ms WEBB - No, that is right. We outline in a later amendment what would be the package of information that would be exhibited. It would include everything that had been collected until that point. I think I read that little bit.

Ms Rattray - Yes.

Ms WEBB - That is reflected in amendments to come if this one passes. To articulate that, I will remind you so it is clear that the panel would exhibit for that public stage of the major project proposal, the major project declaration, the major project assessment criteria, the major project impact statement and the preliminary advice of any participating regulator.

What would not be there is a thing called an assessment report which, as I have said, conveys the impression a decision is being made before the public have that opportunity for a say. I believe we need to endeavour to have the public involved and be seen to have the public involved at the earliest circumstance before that decision point.

That is really consistent. What I am suggesting is very consistent with other normal assessment processes in the planning sense, that there was no sense of a decision prior to public exhibition and input.

In regard to the regulator's advice - I think the Leader talked about this - suggesting the exhibition of regulated advice at that stage is similar in impact to exhibiting an initial assessment report. I would say those two things are not the same. For a start, some of those regulators undertaking their statutory role, if they are deemed to need to do it in the process, will provide conditions that must be complied with either way.

For example, the Aboriginal heritage regulator - if they put conditions in their preliminary advice they must be complied with so whether they are there at that stage or later doesn't matter. This initial assessment report factor has nothing to do with that and what the public respond to is not changed by this in regard to that.

With the other regulators, their information is important for the public to be responding to and to understand in their response to the totality of the information. That is the advice or the conditions of regulators are not excluding the public participating and putting their view at that same stage, and that is part of a package of information that the public can then engage with.

The public know that each individual regulator aren't the ones deciding on whether this project goes forward, ultimately, in a broad way. It is the panel that is doing that. It is pretty different for the public to be presented with sets of conditions or recommendations or advice from regulators to consider than it is for the public to be provided with an initial assessment report from the ultimate decision-makers because that looks like a predetermined decision.

I hope that clarifies a little why I think it is different to have the presentation of regulator advice compared to an initial assessment report.

Ms Rattray - Possibly, having an initial assessment report could have been just a report. Once you call it an assessment report, then that reference makes an issue around this - if you just called it a report and took out all of (a), where it is referring to the panel's opinion, then it is just a report, is it not, and that could be provided.

I understand that you have something else further on. I am trying to -

Ms WEBB - Yes, all those things are provided for, as I said, in the later amendment, just to outline those things that would be exhibited.

What is concerning about it is that it is called an initial assessment report, just to pick up on your question. If we look at this new section I am proposing we delete entirely 'Initial assessment report', and looking at 2(a) over the page, it -

> must include a statement setting out the Panel's opinion, having regard to the information that is before the Panel prior to the public exhibition of the major project, as to the extent to which the major project impact statement …

So, it is putting opinions and assessments of the panel into what then gets put into the public domain, so it does look like there are those sorts of steps taken before public involvement.

Madam CHAIR - I think we need to focus on -

Ms WEBB - I have responded to the Leader and to the member for McIntyre, so I will sit down. It is my third speak next -

Ms RATTRAY - Madam Chair, I will just make a final comment.

My preference would be if it just had 'Initial report' rather than 'assessment', because that tends to make you think there has been an assessment already made. 'Initial report' would have better without 'assessment', possibly, for community satisfaction.

If you just took out (2)(a) where it removes the panel's opinion, but it still provides all of that report, which goes to the minister. I am not sure that he or she should be having anything more than 14 days or a longer period allowed by the minister, but anyway that is another issue.

At least it would allay some fears without having to rewrite the whole section, but obviously other members will have their opinion and contribution so I will leave it at that.

Madam CHAIR - You might have an opinion.

Mrs HISCUTT - I do not, actually. It is the panel's opinion as to whether they have addressed the assessment criteria in (a). It is the panel's opinion, it is not an opinion on the outcome. They have to address the assessment criteria, so it is a statement on the panel's opinion on where they are at a particular point in time. You are looking at it in (a). It is all set out there -

> having regard to the information that is before the Panel prior to the public exhibition of the major project, as to the extent to which the major project impact statement in relation to the major project addresses the matters that are set out …

There is no need for this amendment, and I do urge members that it is okay, it is right.

Ms RATTRAY - Thank you, honourable Leader. I understand what you are saying, but because we have been through the redistribution of electoral boundaries process, where the panel made a statement or a decision, and then the next process is you have to try to undo that if you do not like it. I am just trying to assist the member putting forward the amendment here, because I understand her reasons for doing this.

Ms Webb - It could be done that way. You would have to rewrite (1) as well if you took out (2)(a), but it could be done that way.

Madam CHAIR - We need to deal with what is there in front of us.

Ms RATTRAY - Once there is an opinion there, you have to undo that opinion if you have a problem with it, that is all. That is why I was trying to make the point that once the opinions are there by the panel anyone who is objecting to parts of it or something will be looking and saying, well the panel has already decided that. That is their opinion. We have to try to put up arguments to actually go against that or negate that, I am thinking, but as we know the community does not have the resources of panels and the like, they do their best when they want to oppose something, they absolutely do, and I acknowledge that.

I am thinking of a way of not having to look, 'Oh, that is already how it is. Now we have to try to convince the panel to change their mind or to do it another way'. I am not sure that there is any other support in the Chamber. I am not feeling it.

Mrs HISCUTT - It has to be there or it does not have to be there but it is there for consistency. If you look at the POSS legislation, section 22 says 'Preparation and public exhibition of draft integrated assessment report'. They are to prepare a draft integrated assessment report, and (a) and (b), where (a) is for it to be placed in a public exhibition.

Ms Rattray - But setting out the panel's opinion.

Mrs HISCUTT - Yes and that is setting out the panel's opinion because there could be thousands of pages of information and I know people like to give their opinions on these sorts of things.

Ms Rattray - The community has not seen it yet.

Mrs HISCUTT - Yes, but when it is put out there for someone to have a look at there could be thousand pages of information. Therefore, the panel has been through this and they have had a look at it and in their opinion this thousand pages over here means such and such and this thousand pages over here means something else and as a member of the community if you are interested, you might go to A, B, C or wherever.

It is the panel's opinion based on the information that they have. There could be thousands of pages. An average person in the street just will not do that. This is to help them, so it is to help the public to deal with the masses of information.

Mr VALENTINE - I am listening to the member for McIntyre -

Ms Rattray - Perhaps I did not articulate it well enough.

Mr VALENTINE - I think you are but I think it is the way it might be expressed and the amount of moment that has been put on the panel's opinion. It might be, it might come across as a bit of a fait accompli. This is attempting to tell the public well, this is pretty well it.

Ms Rattray - The public should be part of the opinion.

Mr VALENTINE - It ought to be trying to take the community with it rather than putting it out there saying, do not make too much fuss because this is what it is. I know they are not going to say that but that is the impression that might be given to the community.

Mrs HISCUTT - Whether it is the impression or not that is not the case. This is the beginning point for submissions and hearings and open transparency within the process. I hear what you are saying it could be but people who are going to write submissions to these types of things, they will know. They do it all the time, the people who do these things, they do it all the time or they do it through a body who does, as the member for Nelson is representing those people today

Ms Rattray - Like PMAT or -

Mr Valentine - The person in the street is not -

Mrs HISCUTT - But it is not the be-all and end-all. It is the beginning thereof.

Ms LOVELL - I am little confused about the report. I wanted to clarify at this point this is the initial assessment report, and the opinion of the panel is just around whether or to what extent the major project impact statement has addressed the criteria. It is not an opinion on whether or not it is likely to be approved or likely to granted an approval under the act. I am leaning towards not supporting the amendment. I understand there is a high degree of nervousness around this bill and that people really want to get it right and make sure that it is absolutely right because of how important it is to people. I am leaning towards this assessment report being helpful to people who then want to have an opinion or have a voice in that process, and that it is not at that stage. Perhaps it is a perception and I understand we do have to be careful about people's perceptions. We want people to feel like they can be part of the process and perhaps there is an education process around that that needs to take place.

It is just around whether the criteria have been addressed or not, or to what extent they have been addressed, providing them with information that will likely be more succinct for people to be able to respond to. If the Leader can confirm that, I am leaning towards being quite comfortable with what is in the bill.

Mrs HISCUTT - I can certainly confirm that. I know that many reports we get and have to go through - when I first joined I had a bit of advice given to me by the member for

Launceston with a report this big. I said what do you with this? And the response was, 'Go straight to the conclusions or the summaries and then look through it after that.'. This is the same thing.

Ms Rattray - Usually we go to recommendations first.

Ms WEBB - It is interesting hear POSS raised here as a matter of consistency. We have not even discussed it once as to whether this bill is consistent during this debate so it is interesting to have it raised now that this is somehow consistent with POSS. I will put that aside. I do not think that lends weight to our consideration about this needing to be consistent with POSS.

Let me just talk a little bit about what I hear and the implications of what I hear. Essentially, it sounds like if we accept that the community does not get to see and have input into and have a voice on this process until after an initial assessment has been made about how well it complies with criteria, what we have said is that community's voice, view and potentially concern have no bearing on whether it does comply with those criteria.

The reality, of course, is in forming even an initial assessment about whether the project complies with the assessment criteria that have been set for it, of course information provided from the community, from the stakeholder groups who are not captured in those other more formal channels through the proponents, through the regulators, of course that extra information that comes to light through public consultation and hearings - it is not just the annoying bloke down the street who puts in a submission to everything. It is not that.

A whole range of groups that have community relevance would be participating at that public stage, not just the engaged individuals. Their views, their concerns, their key information, their evidence, their data, all of those things belong in an initial assessment as to whether this project meets the assessment criteria. They belong before because they are an essential part, they are legitimate and an essential part of having that assessment made. How dare we say they are not? How dare we brush them off as the usual suspects? I think we need to consider what we are saying here.

This amendment explicitly ensures that there is not a sense the public has been displaced from what should be their legitimate role in providing input and information and evidence and data and who knows what key information into the assessment process before that assessment is made. It is part of the assessment being made that the decision-makers have access to that information.

Madam CHAIR - I think we are straying more into the community consultation whole process, which is getting back to the second reading discussion.

Ms WEBB - I am specifically talking about this amendment. What it does is shift whether the community provides that information or whether it is being provided into a decision or not, or only responding to it.

Madam CHAIR - Narrow it down to the amendment and not the whole broad topic of community engagement.

Ms WEBB - I am absolutely not talking about the broad topic of community engagement. I am talking about the specific role of the public engagement process in a planning process. That is why this aligns with the planning process we would see in a council and where in that process. When I say input, I mean information is put out about the project. The community has a right to respond and provide information to that. Hearings could be held, so more information can be presented and interrogated.

This is part of the process that feeds into and equips the decision-makers to make a determination about how well that project meets certain criteria. In this case it is assessment criteria. In the council case it is whatever they assess it against there. This is about where the community are able to be formally participants in planning and it should be in providing information into assessment considerations, not only responding to assessment considerations afterwards.

I am sorry if it sounds repetitious.

Madam CHAIR - It is getting repetitious and I will call you up on standing order 100 if we do not move on.

Ms WEBB - I am sorry. I thought I had to repeat it that time because it sounded like the Chair had misunderstood.

Madam CHAIR - Let us move on to the topic at hand.

Ms WEBB - It is my last speak and I am going to check there was no other note I wanted to make.

I finish then with the point we should not dismiss the impression this gives or how materially it actually displaces the public from that project. The impression is important and the actual material effect is important, both those things.

I encourage members to think about this amendment as an effective way to redress the deficiency there in the bill.

Mrs HISCUTT - I am not going to repeat all the things the member for Rumney has said because that was very succinct and to the point, but you do have to have a start point when it comes to making a comment.

If members can be bothered, proposed section 60ZZM(2) covers all that. It says -

> In deciding under subsection (1) whether to grant a major project permit in relation to a major project, the Panel must -
>
> (a) have regard to the matters specified in 60ZM (6); and
>
> (b) consider any representations made under section 6ZZD (1) in relation to the major project; and
>
> (c) consider any matters raised in hearings in relation to the major project

Mr VALENTINE - The fundamental problem is that what we have here is being considered as representations and the public putting forward opinions. What else do you call them? You are seeking an opinion from the members of the public so that can be fed into a report or evidence or whatever else they might wish to put forward. Then that gets considered by the panel as to whether it changes what the panel's initial view is.

Ms Webb - It could be the AMA putting its data in.

Mr VALENTINE - It could be anyone or anybody that does this. I understand where the member is coming from and if you do not want major projects to be viewed in such a negative light in the community, you do not start out by creating what might be seen to be an adversarial approach.

I can see what you are trying to achieve and I agree with that. If there is absolutely no necessity for it to be there, maybe that is the best way to approach this. Why is it necessary to have it here? Maybe you can answer that question.

Mrs HISCUTT - It is simply there to help the public deal with massive amounts of documentation. I do not think I need to repeat all that again. I urge members to vote against the amendment.

The Committee divided -

AYES 4	**NOES 9**
Mr Gaffney (Teller)	Ms Armitage
Ms Rattray	Mr Dean (Teller)
Mr Valentine	Mrs Hiscutt
Ms Webb	Ms Howlett
	Ms Lovell
	Ms Palmer
	Dr Seidel
	Ms Siejka
	Mr Willie

Amendment negatived.

Proposed subclause 60ZZA agreed to.

Proposed subclauses 60ZZB to 60ZZL agreed to.

Proposed subclause 60ZZM -
Grant of major project permit

First amendment -

Ms WEBB - Madam Chair, I move that clause 60ZZM(4)(c) be amended by -

Leave out "not be in contravention of a State Policy".

Insert instead "be consistent with each State Policy".

This is an interesting one. We have had conversations in briefings about this language matter. This amendment clarifies and removes ambiguity. It is about giving legal certainty and confidence to each of the stakeholders involved in this process - the panel, the proponent, the public, everybody. They can all be clearer on how things are being assessed and regarded.

I refer to proposed new section 60N, because it relates to this amendment, and proposed new section 60Z, because both these sections use language that relates to state policies, which is what this one does too, and a test about alignments with state policy. Proposed new section 60N(1)(b) is about deeming a project ineligible right back at the declaration stage. What this tells us is that if a project is deemed to be in contravention of a state policy it is ineligible, right there, right back at the declaration, in proposed new section 60N(1)(b).

We have already tested whether the project is in contravention of a state policy. My understanding, on advice, is that it is quite difficult to legally be in contravention of a state policy. It is not a hard bar to get over in terms of the eligibility. Not many things are going to be deemed ineligible on that basis. There are not many ways to legally contravene a state policy. We have decided it is already not in contravention because it is eligible.

There is another time we ask ourselves about it in relation to state policies and that is at 60ZI(4). I immediately cannot find the page so I am going to tell you what that bit is about. It is about the trigger for no reasonable prospects. It is about determining whether it has no reasonable prospects of continuing as a project and that also uses the contravention argument.

Again, if the project has made its way through not being deemed ineligible and not being told there is no reasonable prospect, it has already been established it is not in contravention so I do not think at this stage we visit where we were talking about in relation to my amendment where we are looking at the assessment of the project and whether it is going to be progressed or not. I do not think we are asking ourselves the same question we asked ourselves when we decided back at the declaring, whether it was ineligible and whether there was no reasonable prospect. I do not think we would ask ourselves the same question during assessment, because it has been asked and answered, which is why I am suggesting a tweak to the language here which does not change materially what the intent is.

We have been told, and I agree, the intent here is to see how it stacks up against the state policy. It is not against them, in a sense, it is consistent with them. That is why I have gone with language which is understood, it is legally clearer, and able to be a different test than the one we applied at the declaration of the eligibility and the no reasonable prospects trigger.

What we were told, is the intent here should be to stick them alongside each other and see if they fit. While my understanding of that contravention term was a legal one based on the information I sought about it, that is where I discovered it is quite hard to be in contravention of a state policy because it is technically with things you have to have gone against.

What it does not tell us is that contravention, in that legal sense, is sitting alongside whether there is consistency, whether they align well, whether they fit. That is why it is a better fit, and it is clearly a different test than the one we had earlier. I am going to check I do not have another note and then I will sit down and will respond to questions.

I will point out LPSs have to be consistent with state policy in LUPAA, section 34(2)(d). Regional land use strategies have to be consistent with state policy - that is the language used in both those papers, consistent. That is in section 5A(3A)(b) of LUPAA, it is understood language, and we heard from the TPC in briefings their preference is for consistent language across these associated acts that have to intercept with each other. It is already a test that the language is consistent with state policy.

I suggest we consider making the change here to no bad effect at all. The same intent but some clarity and some differentiation between tests and other points of the act.

Mrs HISCUTT - As the member for Nelson has already said, the language does not make much difference, but already what you are proposing will create an internal inconsistency between the tests at the stage of granting or not granting a permit for those earlier in the process in regard to ineligibility. The word 'contravention' should be read in the context of the bill and there is little difference between the meaning of contravention or consistent with so it is consistent in this bill to have contravention there.

You may remember the TPC said that not in contravention was, in their view, a tougher test. I think for the above reasons the amendment is not supported and not warranted.

Ms WEBB - To pick up on that one point, the TPC indicated that it is a tougher test, which is why it is at those earlier stages. The point I was making is, you said there should be consistency between language in the early stages and this one, in this bill. That is what I am talking about. It would be almost a nonsense to have consistency between those early stages and this one. They are go/no-go points. Let me talk you through it. Perhaps you did not take the first explanation, I will try again.

Back on page 50 -

Madam CHAIR - I do not think we need to revisit that whole argument.

Ms WEBB - That is fine. In that section it says that if a project is in contravention of state policies, it is ineligible. We have established if it gets through that, it is not in contravention. It is tested again in terms of the no reasonable prospect test. If it is found to be in contravention, no reasonable prospect is determined. We have tested that twice at those earlier stages, where it would be appropriate, if a contravention existed, to stop it.

Where we have reached, we have said it is not in contravention because it has gone through further now, it has gone to assessment. The relevant question to ask here, in the context of having investigated all other aspects of the project, is: is it consistent with? You have said that in the context of this bill, 'contravention' and 'consistent with' is the same. It is somehow the same concept. But we would not need to test it at all at this point if that was the case. We have already decided it twice at those early stages.

Clearly it is not the same. Clearly what we are doing here is asking ourselves a different question. That is how it is meaningful to ask it here, if it is different to the question we asked earlier. There should be a difference, I believe, so I am putting it to you to explain why there should not be a difference between those earlier tests and this one, and therefore different language.

Mrs HISCUTT - Evidence might come up that needs to be put to the same test. Something could be exposed to other conditions, but it needs to be the same test. What is here is good and right and proper. Even the TPC has said that in their view it is a tougher test. This amendment is completely unnecessary. I urge members to vote against the motion.

Ms WEBB - I am just going to point out that on the one hand you say they are the same, consistent and contravention. On the other hand, you say it is a tougher test.

Mrs Hiscutt - The TPC said.

Ms WEBB - It has to be one or the other. You have just said you agreed with the TPC. You just said that.

Mrs HISCUTT - I just did again. I am sorry I repeated myself.

Ms WEBB - You agreed with the TPC, that there is a difference in the test. Yet you said earlier in the context of this bill they are the same. It has to be one or the other. It is logical for them to be different tests. It is logical to have the tougher one earlier. It is logical to have the less tough one at this assessment stage, because it is a different intent that it will deliver in the assessment of the project. I realise it is a losing battle, but just to be clear about the inconsistency of what you said.

Mrs HISCUTT - I think you want to have it tough at the final decision, and I think this is the way it is.

Amendment negatived.

Second amendment -

Ms WEBB - Madam Chair, I move that proposed new section 60ZZM(4)(d) be amended by -

Leave out "not be in contravention of".

Insert instead "be consistent with".

I am not going to repeat the argument. It stands as the same, but it is the same idea. It was tested earlier. We should be doing a different test now, and consistent would be more relevant here.

Mrs HISCUTT - Madam Chair, same argument. I am not going to go through it and repeat it again. We are not in favour of this amendment.

Mr VALENTINE - The project would not be in contravention of the Tasmanian Planning Policies and what we are being asked to consider is to change that to be 'consistent with'.

It is a bit difficult to be either I suppose when there are no planning policies at the moment. If there are not any planning policies there, how can you be consistent with them?

Be consistent with each state policy, be consistent with the TPPs. I reckon they should be consistent with the TPPs.

Amendment negatived.

Third amendment -

Ms WEBB - Madam Chair, I move -

proposed new section 60ZZM(4)(e) be amended by -

Leave out 'not be inconsistent with'

Insert instead 'be consistent with'.

This one is referring to the regional land use strategy. I suggest it should say -

> The project would be consistent with a regional land use strategy that applies to the land on which the project is to be situated.

Our intent here again is to see how these two things sit alongside each other. The purpose of this amendment is to make the language consistent with section 34 of LUPAA. It is also consistent language that I am proposing here with the former section 30O of LUPA Act which still applied to amendments in interim planning schemes where they are still in force due to savings and transitional provisions in schedule 6 of LUPAA.

There was a previous part of LUPAA but some aspects of that are still in play while we have interim planning schemes. Both those sections use this language: 'consistent with' instead of 'not be inconsistent with'. Using the same language across these different acts creates certainty about meaning. We heard that from the TPC. They are the ones who get into the legal stoushes and they are the ones who highlighted that we should have consistency.

The two amendments we have just rejected had consistency with other acts. This one has consistency with other acts.

It is still not clear to me what 'inconsistent with' might mean. I suggest that it could actually generate legal arguments. This will get tested legally because it has not been tested legally, what 'not inconsistent with' would mean. Whereas 'consistent with', which is used elsewhere, which I have talked about being in other acts in similar circumstances - 'consistent with' does have legal certainty. It has been tested and is used in planning scheme amendments and there is certainty about what it means to the commission, the planning professionals and to those involved in planning activities and developments. It provides more certainty.

In discussing this, the Government has suggested to us, that to put this as 'inconsistent with', so requiring that it is 'not inconsistent with' the RLUSs, is to allow for the fact that intended projects might not be contemplated in the regional land use strategies.

So in that sense this is intended to allow this process to override them to some extent, maybe, which is interesting because if something is not contemplated in the regional land use strategies such that we cannot understand its consistency with it - and we might be asked to

under acts - so we cannot presumably determine if it is consistent as long as we can say it is not inconsistent. This is all this asks us to do. That is not especially acceptable because it is really important that projects are assessed against, and do not override, regional land use strategies.

The regional land use strategies set out the orderly development for towns and cities, villages of any region. They do important things - they plan ahead for agricultural development, tourism growth, infrastructure provision, population growth -

Madam CHAIR - We need to focus specifically on the terms of the amendment which is around the use of 'to be consistent with'.

Ms WEBB - The relevance of what I am saying in relation to this is particularly the use of the language here in (e) in relation to regional land use strategies and it is in relation to tests that are applied to that and the language used in other circumstances, which I have just described -

Madam CHAIR - You do not need to go into a full description of what that regional land use planning scheme involves. That is the point here. I need you to stick to the content of the amendment and focus your comments around the language.

Ms WEBB - That is where I am getting to.

Regional land use strategies have planned ahead for communities and provided for anticipated growth and development. The contemplation that we put in there, 'not be inconsistent with', allows for something to be outside of what has been contemplated in a way that means it is not consistent necessarily. It might not be not inconsistent but it does not demonstrate consistency.

That is a big allowance to make for a major project when essentially we should have confidence that regional land use strategies have the capacity, they are broad. They are broadly contemplated for growth and development. They have the capacity to define what would be consistent with the community vision they express. They are not prescriptive but a development might be consistent with the regional land use strategies even it is not contemplated.

Madam CHAIR - We are starting to get a little bit repetitive now. If you could just focus on prosecuting the need to change within the confines of the amendment.

Ms WEBB - I believe I am making a distinction between - and it is an important one. People might see it as -

Madam CHAIR - I am saying that you are straying a little bit too far. We need to focus on the content of the amendment.

Ms WEBB - I wonder whether the time of the night is assisting in constraining us?

Madam CHAIR – No, it is not. It is the fact that we need to deal with these amendments efficiently. I need you to focus on the content of the amendment and prosecute the case as to why these words should be used here, and without too much repetition.

Ms WEBB - I will let others speak on it if they would like.

Mrs HISCUTT - Madam Chair, the terminology, 'would not be inconsistent with' has been used deliberately as it allows for the consideration of a proposal that is not specifically addressed in the relevant regional land use strategies. It is certainly not in contravention to, it is just not inconsistent with. This is particularly important given that the regional land use strategies are considered to some extent to be out of date and in need of review.

One example where this could apply is the light rail corridor between Hobart and Granton, a matter on which the Southern Tasmanian Regional Land Use Strategy only refers to protecting the rail corridor. The Southern Tasmanian Regional Land Use Strategy would need to explicitly state that a light rail proposal should be developed. Such a potentially regionally significant proposal could not even be considered as a major project if it was required to be consistent with the strategy.

Ms Webb - That is not true.

Mrs HISCUTT - Further, what is proposed would create an internal inconsistency between the test at the stage of granting or not granting the permit with those earlier in the process in regard to ineligibility for declaration of 60M(1) and no reasonable prospect test of 60ZI(4) following the panel's earlier consideration of a proposal and the preparation of the assessment criteria set out in 60ZM(7).

You have to bear in mind it would not be inconsistent with. We are not talking about something totally in contravention to. Madam Chair, for those particular reasons we do not support the amendment.

Mr VALENTINE - I have a bit of an interest here in that I chaired the Southern Regional Land Use Strategy development, the first for 30 years.

Madam CHAIR - We will stick to the amendment though.

Mr VALENTINE - I know and that is exactly what I am coming to, because the comment was made with regard to the strategy being out of date. But it is a statutory document and whether it is out of date or not, it is the law. We have to recognise that and if the Government is concerned about the out-of-dateness then it needs to review it. That said, with the example quoted I do believe with the rail corridor, not much else runs on a rail corridor but trains but there you go.

Madam CHAIR - Or bikes.

Mr VALENTINE - It could be, but the point is that the TPC, when we met with them, said it would cause greater legal argument and the idea of reducing red tape and reducing opportunities for such things should be high in the mind of the Government.

'To be consistent with', is still relevant and to be not inconsistent with opens up a significant breadth of projects that could come forward when the community expects the strategies to be the guiding light. This amendment is reasonable. I understand the argument the Government has, but it is not necessarily going to be for the benefit of the Government at the end of the day.

Mrs HISCUTT - The RLUs are broad strategic documents that do not relate to particular projects.

Mr Valentine - That is right.

Mrs HISCUTT - It is hard for individual projects to be considered with a strategy. It has to be 'not' - the wording is right; the wording is correct. And delivered.

Ms WEBB - You are right - the RLUSs do not specify individual projects. They are broad. They are a broad vision for development. They do not relate to that granular level. I think the assertion the light rail would not be able to be deemed consistent with the regional land use strategy for that area is wrong. It could readily meet a consistency test for that area without having to be specified because that would be inappropriate to specify a project in an RLUS particular project. Of course, we would not look to find it there.

It does not mean because it is not in there, that it is not - and because the strategy does not say we must plan for a light rail. The shorter strategy talks about population growth, talks about urban development along growth corridors and things like that, all of which the light rail could show itself to be consistent with.

We are not here to prosecute the light rail case. I am picking up on the idea 'consistent with' is not too high a bar for us to expect. It is a reasonable bar. It is a consistent bar with other acts. It has legal certainty to it and what we are making here is a law. It will be tested. We know particularly in this area it will be tested and this is language which has been tested and agreed upon in terms of what it means. Whereas 'not inconsistent with' has not been tested, has ambiguity and will set up situations in which it will need to be tested and will cause problems.

We can change this, make this small tweak. People may see it less of a leap than the contravention to consistent that was in the other ones. This is a fairly straightforward, tested way forward with this.

Mrs HISCUTT - This point was shared extensively during our briefings. Members know what we are talking about here so I will have one last comment and then that will be it. I want to reiterate that the terminology has be used deliberately as it allows for consideration of a proposal that would not be inconsistent with.

Amendment negatived.

Fourth amendment -

Ms WEBB - Madam Chair, I move that proposed new section 60ZZM(4) be amended by inserting after (e) -

Insert the following paragraphs:

(ea) the project avoids the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and

(eb) the project is in the public interest; and

The intent is to add to what has occurred above in (b), (c), (d) and (e).

It asks that we provide the very explicit inclusion here when we are making a list of things that the project needs to be aligned with. Whether we are using words around contravention, consistency or inconsistency we are talking about things that the project needs to demonstrate to be aligned with. This inserts two other key things that we would ask for the project to be aligned with. This amendment provides more rigour. It picks up on areas that might be of public concern and makes sure that we have articulated clarity on things to be considered.

It is pretty straightforward: proposed new section 60ZZM(4)(ea), in addition to those other things that it needs to be aligned with, needs to avoid the potential for land use conflicts for use and development in the adjacent area. People could see why we want to ensure that is there and checked against.

I will speak briefly about proposed new section 60ZZM(4)(eb), which inserts that the project is in the public interest as something to be considered here and tested. If a major project is to go through this specially designed process to obtain numerous approvals and it seems appropriate that the decision-makers in the course of that would ask: is this project in the public interest? - then that test would be applied. Asking decision-makers to consider the public interest is commonplace in legislation. It is a consistent and common thing that is done not just in Tasmania but nationally in lots of planning legislation. It is so commonplace that if you search for it on the legislation website, you will find 77 acts with 807 provisions that use it.

It is a normal test to put into these types of considerations. One of the reasons we know that is that it is asked when a project is put into the MIDA process. The minister has to state at the outset that the project is in the public interest. Here it is being asked at this stage, when assessment is being made. It is really just a touchstone in the same way it is in MIDA, for example.

One more point I had over the page relates to the first part of this amendment, the (ea) part, which is to do with avoiding the potential for land use conflicts with adjacent areas. That is not necessarily reflective of a specific clause in LUPAA at this present time, but there used to be one. There was a clause in LUPAA that provided for this same avoidance for potential for land use conflict. Really that is what planning schemes are attempting to address - that we do not have conflict in terms of use of land.

The former LUPAA section 32 included this precise language and it is still applying to amendments in the interim planning scheme right now. If you do not have to consider zoning in this major project process this inclusion (ea) provides you have to consider the adjacent area and explicitly avoid conflict. It is a reasonable thing to put there. I will leave it at that for now.

Mrs HISCUTT - With regard to the (ea) part, the provision is not considered to be required because the matter for considering potential adverse impact is a key element in the objectives of the LUPA act 1993. Specifically, 1(b) of the objectives is to provide for a fair, orderly and sustainable use and development of air, land and water. The major projects process requires all projects to be an effective and appropriate use or development of the land to which the major project relates. This is clearly a test of good land use planning and reasonable impact management.

Planning schemes are approved if they further the objectives of the act which is why they are a benchmark for the preparation of the assessment criteria. Accordingly, the issue of considering adverse impact is already embodied in the decision-making criteria and does not need to be prescribed by an amendment.

With regard to (eb) which is the public interest, none of the assessment processes under LUPAA specify a project must be in the public interest in order for it to be approved and neither does the projects of state significance assessment test under the State Policies and Projects Act 1993. Inserting this test in the major projects process would be inconsistent with all other planning processes in the state.

Further, the amendment as drafted would render every major project unable to be approved because every project would have an adverse impact of some kind rendering the whole process unusable.

Further to the above, there is a technical deficiency with the amendment as the term 'public interest' is not defined and if it is left undefined it can be open to a wide and varied interpretation. In the context of the proposed amendment is the public interest in reference to an adjoining landowner or the broader regional community that might benefit from a major project? Without answers to these questions to accompany the amendment it cannot be supported.

It is clear on the above grounds that the whole amendment is not supported.

Ms RATTRAY - A contribution to the member's amendment: I will go to (eb) in this particular call. On the project being in the public interest, I read out in my second reading contribution there was no definition of public interest. There was a response in regard to that from the Leader in her reply to all second reading contributions. Given that it is very difficult because there is not a definition, I am going to find it difficult to support the member's amendment in regard to that, but I am certainly happy to listen to other contributions in regard to that.

Ms WEBB - Picking up on that, it is the norm in those 807 - at least - spots it is used in legislation in this state, it is the norm that public interest is not defined. It is accepted but it is not defined, yet we use it in all those instances across a whole variety. Because I do not want to get off the topic I am not going to give you some examples of different areas it is used, I am not. The norm is we do not define it.

We ask, at the very outset of the MIDA process, that the minister makes a determination the project going into that process is in - wait for it - the public interest. It is a test right at the beginning of that process. We passed something in this place that allowed that to happen recently. This is a test used without definition. It is obviously one that can be applied. We ask it to be in legislation and it is.

The fact it is not defined here is consistent with other legislation where it appears. Assessing public interest, or being able to say yes, this is in the public interest does not require that you demonstrate an adverse impact of any sort. It does not mean any particular complaint or claim against or perceived deficiency can risk the project not being deemed to be in the public interest. It is not a simple, if anyone complains therefore, it is not. Nothing like that. The claim if we had this as a test nothing would get through is a nonsense. If that was true,

then nothing would get through in the Major Infrastructure Development Approvals Act. It is the thing we ask at the very beginning, to be a prerequisite for going into it. If it were true that it set a bar so low that it would never get up, we would never see action in those other acts.

To ask who is the public interest applying to, what does that constitute? Again, we ask ourselves that all the time. It is not a problem here in this act, just the way it is not a problem in the other acts. It is understood to be a test that can apply. I am going to sit down and see if anyone wants to make a further contribution on that.

Mrs HISCUTT - For clarity, Madam Chair, the member is talking about - with the public interest test - the process, not the project. There are two different things; we do not want to confuse the two here. In my hand I have a MIDAA public interest test which talks about the process, not about the project. For example, section 7 of the act says -

> In determining whether it is in the public interest to grant an application under subsection (1)'…
>
> > … whether the proponent could reasonably have avoided the need for the application.

Then it goes on about a timely completion of the major project. We are confusing the process of public interest as against the project. I hope that makes sense.

Mr VALENTINE - I hear that with interest. I did not quite catch your comment in regard to (ea) and in relation to the objectives of the Resource Management and Planning System. Chair, can I ask the Leader to repeat what that was so I can -

Mrs HISCUTT - You will pay attention, won't you?

Mr VALENTINE - I was reading.

Mrs HISCUTT - Whilst the member is on his feet I am happy to do that. The Land Use Planning Approvals Act 1993, specifically (1)(b) of the objectives, is to provide for a fair, orderly and sustainable use and development of air, land and water.

Mr VALENTINE - The comment in relation to (ea) was that the conflicts are already going to be taken into account. Was that the comment?

Mrs HISCUTT - That is correct. I am seeking some information.

Also, LUPAA at section 30H(3)(b) talks about when a public exhibition is not required. It goes on to say -

> (ix) a prescribed purpose -
>
> and the Minister is satisfied that the public interest will not be prejudiced by the draft amendment of the SPPs not being publicly exhibited.

We are talking about the process, whereas the bill in front of us is talking about the project.

Mr VALENTINE - Am I allowed to ask a question of the member for Nelson in relation to the other places where public interest is used?

Madam CHAIR - Yes, she has one more call.

Mr VALENTINE - Is it in relation to specific things like projects?

Ms Webb - If I get up now to speak, it is my third speak.

Madam CHAIR - You can resume your seat if any other members want to ask questions of the member.

Ms WEBB - In pointing to those at least 807 occasions when public interest does appear in legislation, my point at that stage was that it is not defined in any of them for a start. It appears in many different ways in relation to many different things, processes and otherwise.

While we might make distinctions between the function it is having here, and the function that we could pick and choose from any other different examples - because there are so many - it would be functioning slightly differently in all of them. The distinction in some sense, yes, it is correct, but it is basically a statement that the project can be regarded as being aligned with the public interest, and therefore in it goes to that process.

I still believe it is a very legitimate test to put here and ask of this process at this stage that it can be demonstrated and ticked off as being considered in the public interest. I am not able to point to somewhere where it specifically functions in the same way as this, just because my familiarity and my access to resources, advice and documents is not to that extent.

I am also not a planning expert, so I cannot necessarily be able to guarantee that an example I might point to might be precisely the same function in the same kind of process and the point to the process that appears here. I would feel very reluctant to do that. I am going to check my notes.

Ms Rattray - Check your phone. Sometimes we get messages on our phone.

Ms WEBB - I will finally add that the reason I have inserted the amendment for consideration at this point is that we are talking about major projects. I think we would then ask, 'Why would we expect it to be in the public interest?' Because it is a major project. We have already said because of the eligibility criteria that it is significant in scale and complexity. It is relevant to a region.

The very nature of a major project should be tested against the public interest in the same way that we would expect the MIDA processes to have that element. Slightly differently with regard to the process, but the concept is there. It is not here in this bill.

Amendment negatived.

Ms RATTRAY - Madam Chair, I am looking at the hour of the day; considering we have worked three very late nights, I am going to test the will of the Chamber and move that we report progress.

Madam CHAIR - Before I consider that question, member for McIntyre has another amendment proposed for this proposed new subsection. We would need to deal with that in this subsection if the member is intending to progress it. It is the same one, is it not?

Ms RATTRAY - That is exactly why I thought we should adjourn. I looked at the amendment and I can imagine what it will involve, with all due respect.

Madam CHAIR - I will get some further advice from the Clerk. The Clerk has informed me that as there is no amendment before the Chair and even though we are part way through a subclause, we can do. If you would like to put that motion.

Ms RATTRAY - Madam Chair, I looked at what is remaining, as other members have probably done. To be fair to the member who has moved many of these amendments tonight, it is becoming a bit of a chore for everyone. In the interests of having the best piece of legislation that we possibly can, as I have indicated, I will test the will of the House and move –

That the Committee reports progress.

Progress reported; the Committee to sit again.

TEACHERS REGISTRATION AMENDMENT BILL 2019 (No. 50)

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

RAIL SAFETY NATIONAL LAW (TASMANIA) AMENDMENT BILL 2020 (No. 7)

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

First Reading

Bills received from the House of Assembly and read the first time.

MESSAGE FROM THE HOUSE OF ASSEMBLY

Parliamentary Standing Committee on Subordinate Legislation - Member for Braddon - Appointment

Mr PRESIDENT - Honourable members, I have received the following message -

Mr President

In accordance with the provisions of section 4 of the Subordinate Legislation Committee Act 1969, No. 44, the House of Assembly has appointed the

honourable member for Braddon, Mr Ellis, to serve on the Parliamentary Standing Committee on Subordinate Legislation.

Sue Hickey
Speaker
House of Assembly
17 September 2020

ADJOURNMENT

[9.58 p.m.]

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

That the Council at its rising adjourns until 11 a.m. Tuesday 22 September 2020.

Mr President, I thank all members for their hard work this week. I do appreciate it.

Motion agreed to.

The Council adjourned at 9.59 p.m.