



PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 4 May 2022

REVISED EDITION

Contents

LEAVE OF ABSENCE	1
MEMBER FOR PEMBROKE - MS SIEJKA	1
SUSPENSION OF SITTING	1
SECOND READING	1
QUESTIONS.....	14
MIDWAY POINT INTERSECTION PROJECT.....	14
UNIVERSITY OF TASMANIA HOBART CAMPUS RELOCATION	15
ROCK LOBSTER FISHERY'S IMAS STOCK STATUS ASSESSMENT	17
FIREFIGHTING MEASURES ON THE <i>SPIRIT OF TASMANIA</i>	18
LEGISLATIVE COUNCIL ELECTIONS 2022 - COVID-19 SAFETY MEASURES	20
ROCK LOBSTER FISHERY'S IMAS STOCK STATUS ASSESSMENT	23
LAND TAX RATING AMENDMENT BILL 2022 (NO. 6).....	24
IN COMMITTEE	24
SUSPENSION OF STANDING ORDERS	26
PASS ALL STAGES - FOREST PRACTICES AMENDMENT (VALIDATION) BILL 2022 (NO. 13)	26
FOREST PRACTICES AMENDMENT (VALIDATION) BILL 2022 (NO. 13).....	33
SECOND READING	33
FOREST PRACTICES AMENDMENT (VALIDATION) BILL 2022	36
SECOND READING	36
FOREST PRACTICES AMENDMENT (VALIDATION) BILL 2022 (NO. 13).....	50
IN COMMITTEE	50
ADJOURNMENT.....	52
SLOWNESS OF MINISTERS' RESPONSES TO QUESTIONS	52
APPENDIX 1	53

Wednesday 4 May 2022

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

LEAVE OF ABSENCE

Member for Pembroke - Ms Siejka

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

That the member for Pembroke, Ms Siejka, be granted leave of absence from the service of Council for this day's sitting.

Motion agreed to.

SUSPENSION OF SITTING

[11.03 a.m.]

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

That the sitting be suspended until the ringing of the division bells for the purposes of continuing our briefings.

Motion agreed to.

Sitting suspended from 11.04 a.m. to 12.01 p.m.

LAND TAX RATING AMENDMENT BILL 2022 (No.6)

Second Reading

[12.01 p.m.]

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

That the bill be read the second time.

Mr President, on 1 March 2022, the Premier delivered the state of the state Address in which he outlined the Government's road map to secure Tasmania's future. In that Address, the Government promised to double the land value at which land tax becomes payable from \$50 000 to \$100 000; increase the maximum land value threshold by \$100 000 from \$400 000 to \$500 000; and decrease the rate of land tax on land values under \$500 000 to 0.45 per cent.

This bill delivers on our state of the state Address commitment to reset the land tax rates and thresholds. Last year the Government took action to relieve some of the costs of rental properties and put downward pressure on rents by resetting the land tax thresholds. There is no doubt that Tasmania's strong economy and desirable lifestyle has meant more and more people want to live, work and raise a family in Tasmania. To ease the cost of living for Tasmanian families, and continue adding downward pressure on rents, the Government is taking further action on land tax rates and thresholds.

By increasing the tax free threshold and the maximum land value threshold, and reducing the rate of tax on land under \$500 000, it is estimated that approximately 70 000 landowners will benefit, with an average saving of around \$600 on their land tax bill. It will also mean approximately 7800 landowners will no longer pay land tax from 1 July 2022.

This bill gives effect to the Government's land tax relief as announced in the state of the state Address. The bill, together with the Government's other housing relief measures, shows our continued support for Tasmanian families and provides more sustainable housing outcomes across the state.

Mr President, as an aside, I refer to some detailed questions asked during the briefings by the member for Nelson. Because we are doing this bill first, my advisers have not had time to collate those figures. I undertake to provide them to the member as soon as that work is done.

Mr President, I commend the bill to the Council.

Ms FORREST (Murchison) - Mr President, I cannot recall in recent times a shorter second reading speech than the one we just heard. This is also a short bill. It is almost impossible to argue against measures that provide relief for Tasmanians who own property in Tasmania, obviously not all Tasmanians. I know from the Leader's second reading speech the intent of the Government - which was outlined by the former premier in his state of the state response - was to reset land tax rates and thresholds, but no mention of the base. It is the same discussion we have time after time, some of us do, as it is usually a one-way conversation. I want to talk more broadly about the issues the bill addresses here and I ask, how is it - when the state is staring at fiscal unsustainability and the complete inability and total unwillingness to look for more revenue sources - we are confronted with a bill which ignores the giant elephant in the room and proceeds to hand out tax relief to a few, without any overall plan? I am not suggesting for a second that tax relief is not an appropriate action and I will not be voting against the bill, even though I do not think it does anything to assist the debate. Especially with the cost of living pressures rising alarmingly and yesterday - it seems like - when the interest rate rose.

Ms Rattray - It was yesterday.

Ms FORREST - It was yesterday the RBA finally moved on interest rates and raised them, which will cause additional pain for many home owners, along with all the other cost of living pressures they are experiencing at the moment. The issue for me is that the actual problem is lack of a long-term plan or strategy. A problem that looks like another elephant. It is a continuation of the same pattern we saw in the extraordinary generosity shown to the poker machine operators. This time, the Government has offered another non sequitur to justify measures in this bill. The Government has said in the second reading speech that there is no

doubt that Tasmania's strong economy and desirable lifestyle has meant more and more people will want to live, work and raise a family in Tasmania. Yet the Government deems it necessary - as stated by the Leader - to ease the cost of living for Tasmanian families and to continue adding downward pressure on rents. Let us be clear, people owning their own places of residence do not pay land tax, so the measures are not directed at them. The measures in this bill are not directed at those who own their own primary residence and live in it. The measures are supposedly intended - according to the second reading speech and the rhetoric around it - to assist renters.

I am sure we are all hearing the same stories in our electorates, as I am sure the Treasurer is in his, former and current. We have a situation where there is a chronic shortage of rental properties. It is extremely difficult to find a place to rent, certainly at an affordable rate. It is a sellers' market. I will be happy to hear from any member who wishes to disagree with that and it is a very lived, real reality in my electorate. In that case, I cannot understand what makes the Government confident that land tax reductions will pass on to renters in the form of lower rents - when the market is so tight, there is no pressure to. That is what the Government expects us to believe, and would like to imagine that land and property owners will do, but there is no evidence to suggest that will be the case. Maybe a few might pass on the tax savings and I encourage every one of them who gets this tax relief to do so, but to imagine there would be a general tendency to do so is delusory. It simply will not happen for the vast majority.

What is the primary effect that flows from lower land taxes? It is an increase in a net rental income for landlords and commercial property owners; they are the ones who pay the land tax. Well, they do not, their tenants do. Which in turn will lead to higher property valuations, which will lead to an increase in loans to banks that the banks that will provide to property owners and prospective property owners, which in turn will lead to higher property prices. Will this not lead to higher rents? Does anyone seriously believe that land tax reductions will lead to joy amongst renters? I find it somewhat insulting to expect us to accept this as a fact as there is no evidence this has happened in the past or will happen now.

This tax relief measure is designed to benefit the property-owning constituency which is more likely to vote for a government that looks after its interests. Why, if people are queuing to come to Tasmania to live, work and raise a family, is it necessary to cut taxes to make it even more attractive for them to do so? Particularly, some of those cashed-up buyers from the mainland, where the property prices have gone through the roof too, except in New South Wales. They seem to be coming off a little bit. Why not cut payroll tax, slash rates? It really is a nonsense argument.

This is where the limitations of our federal system become apparent. We have three levels of government with overlapping and, at times, ill-defined responsibilities. I hope that the review of local government can look at this aspect as well.

The social security system should be the responsibility of the Australian Government. If renters need more assistance, there is a policy instrument in place for that. It is called rent assistance. Perhaps the Leader can inform us what this Government has done to lobby the federal government to increase rent assistance once it recognised that the renters needed help? Clearly there are a number who do.

We need a tax system that is fair, equitable and efficient. Land tax is universally recognised among economists as meeting these three criteria. It is one of the few taxes that

does. You cannot move it offshore, we are not making any more of it and you know where it is. The more land you have, the more you pay. That is fair and equitable.

There can be a problem with inability to pay when asset-rich and cash-poor but this, too, can be addressed through properly designed welfare payments at a federal level. I will not go into that now.

The third criteria is efficiency. While a properly designed system is efficient if everyone pays, we have a system that favours principal place of residence over rental properties. If the Government seriously believed in helping renters, this would be the first problem that needs to be addressed. The current system favours home owners rather than rental property owners. The effect is, as is all too apparent, overcapitalisation on principal places of residence. We spend too much on our principal places of residence. The system encourages us to do so.

We sometimes forget that owners of principal places of residence pay some land tax every time they pay rates. The rateable value of a property contains a land component. So they do; it is just not called that, it is called rates, and the councils collect it.

This is further evidence of what I have alluded to above - the overlapping and, at times, ill-defined responsibilities of two levels of government. A properly designed tax system could have one level of government raising land tax, or taxes on land, if you prefer to call it that. Arguably it should be local government. In the majority, they have shown themselves to be better at sustainably funding their own operations.

However, the arguments for local government reform will have to wait for another day. I am sure there are many in this Chamber who will be contributing to that process. I hope that when members contribute to that process they think about this question about the roles, responsibilities and functions of councils, not just how many there should be, how many members there should be and where the boundaries should be. Those are important matters too, yes, but this is equally important.

Land is absolutely crucial to the economy and, more importantly, to our community. Whenever we talk about housing and housing affordability, the first thing we should do is unbundle housing into its two components: land and the buildings erected on the land. It is the price of land that is the main driver of house price rises. I say that with fingers crossed, hoping that the recent rise in building cost is just a temporary phenomenon. Time will tell on that. If that continues, that statement may no longer hold true.

The rate of increase in land values has unbalanced our economy. Slowing the increase and channelling the benefits back into the community should be the primary focus of housing policy; trying to find long-term solutions, not short-term fixes and not simply schemes which rescue a few people each year while the overall problem worsens. Government policies and decisions are responsible for much of the increase in land prices, from rezoning, basic infrastructure, improvements and building other public infrastructure such as schools and hospitals. Most of the benefits accrue privately, they do not come back to the community, by increased land prices in that neighborhood. Governments should claw back some of the benefits, not just to build a revenue base for themselves, but to reverse the worrying trend toward a more unequal society which is where we are heading with the current systems - that is the discussion we should be having. I know this is not entirely the place to have it, in relation to this bill, but it is a discussion we need to have and I will take every opportunity that comes

up in relation to any of our taxes, particularly in relation to land and to property, because that is where people are hurting.

This bill is a step in the wrong direction, even though I will not be voting against it because that would be churlish and the Government has made a decision it needs to support a group of people who are mostly investors, not everyday Tasmanians who own their property and live in it. I long for the time when we can have a mature, reasonable and informed debate about the issues I have raised, rather than this piecemeal approach that assists very few and exacerbates the unbalanced community and unequal society.

[12.16 p.m.]

Ms WEBB (Nelson) - Mr President, I will find my way back to where I needed to start here. Thank you, member for Murchison, for that contribution which was quite comprehensive around the issue, unlike the second reading speech, unlike the absence of any evidence base presented along with this bill for the claims made in that scant second reading speech about its apparent intent. It does not even warrant pretending to present an argument to give this gift to people who in many instances will be utterly unrequiring of it. To pretend that doing that, putting a veneer over it, that somehow this is helping people with cost of living or housing affordability, it is quite offensive.

I recognise the bill intends to implement commitments made during then premier Mr Gutwein's state of the state Address in March. I note this is the second amendment to the state's land tax rate that we have had following last year's Treasury Miscellaneous (Cost of Living and Affordable Housing Support) Bill 2021.

What we have here is a bill which is an example of incredibly problematic public policymaking. It is based on flawed and entirely discredited ideas like trickle-down economic theory, that somehow providing an economic benefit to the haves will somehow trickle down to people who are the have-nots. That is a nonsense, it categorically has been shown to be. There is no guarantee at all the stated goals of this bill can or will be delivered by it.

The only guarantee of financial relief in this bill is for a particular stakeholder group, the housing property stakeholder group, who are land tax payers. Certainly, in a Venn diagram that group does not overlap very much with the people who are most vulnerable in terms of housing affordability and cost of living in this state. This bill is not driven by evidence-based data and does not include any measures directly linking land tax relief to rent relief or housing affordability. I will speak about that more later, because other jurisdictions have tackled things like this regarding the issue of land tax, but they have made those links more explicit and direct, so intended outcomes could be more robustly expected to be delivered.

We have not bothered to do that here, we have just gone with some rhetorical veneer that this is somehow about assisting people who need it, and it is not. As land tax is only paid by those who own more than one property, this is a risk of a potential perceived conflict of interest in debating and passing a land tax relief package, without disclosing the benefit that might come to us, or me, as an individual voting on the bill.

It is particularly important in this instance, given the failure of this bill to mandate that savings or benefits received are somehow passed along to those in need. It should be acknowledged that one may be a beneficiary, and certainly I feel that way about myself.

The community expects members in this place to deliver proactive, routine and accountable declarations of that nature, where there are both perceived or potential conflicts of interest, as well as material conflicts of interest. Material conflicts of interest might mean we recuse ourselves. In this instance, I believe a perceived or potential conflict of interest, or being a beneficiary of this bill, warrants a declaration. Of course, people could go to members' declarations of interest to ascertain who might benefit from this bill. That is in the public domain. But that is a high bar to expect people to go through. I would like to see something much more proactive and routine than that.

We also know that members' interest declarations are not current, as they look retrospectively at the year that preceded them being publicly tabled. That means that whenever a bill might be before us, even if people were to look back to declarations of interest, they might not find something that related to the bill but that had come about and been part of it.

That is why I am making it clear. I am a prime example. Since our last declarations were made, I now have a property that is tenanted and, therefore, I may be perceived to be, or potentially will be a beneficiary of this bill. People would not necessarily find that in the public domain in my current declaration of interest. They will see it in next year's declaration. I put that on the record here. I do not consider it means that I need to recuse myself from participating in the debate or the vote, but it is appropriate in the context of my contribution, and appropriate for the public to understand.

The second reading speech, scant though it was, says that this bill is the Government taking further action to do two things. Firstly, to ease the cost of living for Tasmanian families, and secondly, to continue adding downward pressure on rents. We will unpack both of those here, and the member for Murchison has already done some of that unpacking for us.

Before I do that, I note that this is the second time that we have had these sorts of measures brought to us, and passed through, to provide similar sorts of relief. Surely, that must mean we could have confidence that the first iteration has been fully assessed and evaluated for its impact, and the level of success it had in achieving its stated outcomes in terms of cost of living, housing affordability, and other expected outcomes.

Surely, that would be an important piece of evaluation of a policy and legislation that would then feed through into the development of a Mark 2, if you will. A 2.0 attempt.

Surely, we could have confidence that such an evaluation and analysis would have occurred after the first time we gave people similar land tax benefits. However, we have not been provided with any work of that nature, or anything to indicate that we could point to a previous policy that provided similar land tax relief, that then flowed through and provided outcomes in cost of living relief or housing affordability relief to those who need it.

I do not believe that evidence has been presented. If it exists, I would like the Government to present it. I would have presumed good policymaking would have meant it was the basis for the decision to undertake this particular policy and give it effect through this bill. Sadly, I suspect not.

In particular, we would expect to have seen evaluation of the extent that those aims were achieved, because what we are talking about is the potential to provide relief to those who need it most and whether we are doing that effectively.

There are ways we could do that in terms of land tax and relief that flowed through. We have not done it this time. I do not believe we did it last time. To paraphrase Oscar Wilde, to pass one suite of land tax relief measures without policy impact data to show it worked is regrettable. But to do it twice cannot just be regarded as carelessness; it is actually irresponsible and unconscionable for the Government to be doing this.

Let us unpack those stated aims. We are told that increasing the tax-free threshold to \$100 000, increasing the maximum land value threshold to \$500 000 and reducing the rate of tax on land under \$500 000 to 0.45 per cent will provide cost relief to all land tax payers. Indeed, it will. We are given to understand that about 70 000 landowners will benefit from this. The Government estimates that around 7800 landowners will no longer pay land tax from 1 July 2022 and that the average benefit in the first year would be around \$581, with a maximum saving of \$1625. Overall, the Government estimates that this will provide around \$39 million of tax relief for property owners. Or, put another way, it will be a loss of \$39 million in state revenue. We will talk about that loss of revenue later too, no doubt.

I was seeking answers to some questions in the briefing and the Leader has undertaken to provide this to me later. It is not going to be particularly helpful later but I would like to have it anyway. My questions were along these lines. We do not see any distinction in those figures between commercial and residential properties. Who are the 70 000 landowners who are benefiting? This is an important question because this is a key decision by the Government to provide this gift, essentially, to these 70 000 Tasmanians. What are the basic demographics of the beneficiaries of the legislation? Where do they live? What regions of our state? What is their income profile? What is their gender profile, their age profile? What is their disability profile? Currently, how many of them are securely housed?

This bill does nothing to guarantee that the financial benefits or relief from financial pressures it provides will be targeted to those most in need. Where is the evidence that land tax is a pressing burden to those in our community who are the most vulnerable to cost-of-living pressures? If we went to our most vulnerable, I do not think that their land tax bill is the biggest burden they face. In fact, most of them would probably ask us, 'The what?'

Where is the analysis that shows that the group of beneficiaries from this policy and this bill are the ones who should be prioritised for government assistance and in this specific way?

Where is the modelling and analysis that tells us that this is the best way to spend \$39 million of tax revenue for our state, that these people deserve that largesse more than other measures we could provide to others in our community?

I will most likely be a beneficiary of this measure and I can categorically confirm that I do not require it. In fact, I find it quite nauseating to be here facilitating what will be, in many instances, unneeded financial assistance for landowners, pretending that it is to assist with cost of living or housing affordability while far too many Tasmanians will be sleeping in cold cars tonight or tents by our highways. It is inexcusable that we do not have any argument presented from the Government to justify this gift and to compare it to other options they had before them to provide support on cost of living or housing affordability.

The second reason given here apparently related to this bill and this measure is adding downward pressure on rents. I follow on and fully endorse the comments made by the member for Murchison on the absolute nonsense of this claim. In fact, it is interesting, there was even

some back-peddalling from the Government in some comments made, to move away from the idea of downward pressure on rents and to try to reframe it somewhat and instead run out a line that it was, in fact, potentially not to put upward pressure on rents. This is problematic, as soon as you start to back away and back-pedal from a claim - which is still in the second reading speech, mind you, so I presume it is still a claim the Government would like to stand by, that this will somehow put downward pressure on rents. I would like to hear that argument prosecuted.

Mrs Hiscutt - Hopefully you may be one of the ones who passes it on to your renters.

Ms WEBB - Hopefully I will be, and indeed, that will be an individual decision for me, but there is nothing here that requires me to do that. Other states have actually put more measures in place to make that a more direct flow of benefit. This Government - your government - did not do that, made no requirement for it, and as the member for Murchison pointed out, there is no market imperative for it to be passed on whatsoever, none.

I also note, and I believe comments in the public domain from the Government to say, given that people kick up a fuss about increases in land tax putting upward pressure on rents, therefore this must do the opposite. Well, that is nonsense. Of course, if as a landlord my costs increase, given basic financial literacy, I will look to meet those costs through what I have available and therefore, potentially put rents up. That is a natural and understandable sequence of events. If I am provided with a saving, there is nothing that requires or prompts me to then pass that straight through to someone else. It is a gift outright to the person receiving it.

I would like to hear from the Government exactly how they propose to demonstrate what impacts this policy has had on rents down the track, let us say a year in. How will they be assessing its success in either downward pressure on rents or any impact on rents? I would like to know exactly how that is going to be brought to us and demonstrated through analysis.

I also would like to know, not just some of those other breakdowns I mentioned earlier, but which of these 70 000 are landlords and have rental properties currently rented out? If we are talking about this proposition of downward pressure on rents, how many rental properties are we talking about? How many of those are commercial, how many are residential? I am interested to know because that would tell us - in broad terms - how many current houses out there amongst our housing stock might be benefitted from this. It will also feed into however the Government proposes to evaluate its success. It will tell us broadly how many current tenants - who are generally amongst the most vulnerable people in our community; tenants in the private rental market - will tell us how many of them may potentially expect some benefit from this.

What is the cost-benefit for the state in forgoing this taxation revenue? Especially considering we could be devoting it to other areas of urgent need when we look at both cost of living and housing affordability. We can certainly look to our housing assistance services, our crisis accommodation assistance services and other programs of that sort and readily identify areas where \$39 million could be used to great effect. I ask the Government, to pay for this \$39 million gift to property owners, what services to which groups of vulnerable Tasmanians are you cutting to provide this financial bonus to the property class in our state? How are you going to measure that is a worthwhile and cost-benefit positive measure for our state overall, compared to the things that will be cut to pay for it?

I would like to take a moment to remind us about why potential cuts to the services, or at least, the neglect to provide extra benefit and funding to the services that relate to our housing and homelessness programs is so outrageous right now. To neglect to support them, to neglect to prioritise those measures above this measure - it is absolutely unconscionable. We have a current crisis in affordable housing, but that does not do it justice. We have an urgent emergency in housing in the state.

I look at things like the rental affordability index done by the partnership between National Shelter, the Brotherhood of St Laurence, Beyond Bank Australia and SGS Economics and Planning. That is a regular and reliable measure of affordability across the nation. What does that most recent one from November 2021 - just a few months ago - tell us? On page 46 when it is talking about national trends and metropolitan areas, that rental affordability index tells us:

Greater Hobart continues to be the least affordable capital city in Australia for the average rental households of each city. The improvement in affordability during the second quarter of 2020 was short lived, and rents have continued to rise rapidly, pushing affordability to a historic low point.

Over the past five years, the RAI score of Greater Hobart has decreased by over 5 per cent per annum, leaving it as the only capital city in Australia where rental affordability for the average rental household is below the critical threshold of 100. With a RAI score of 87 in June 2021, the average rental household would pay 34 per cent of their income if renting at the medium rate.

Although household incomes in Tasmania are significantly lower than the national average, rents are only marginally lower than mainland averages. The gap between income and rent has been widening over the past four years, with little sign of abating. A comparison of RAI scores in Greater Hobart and Greater Sydney over recent years shows that while the two cities have shared similar levels of rental affordability in the past, the gap between their RAI scores has widened considerably since 2017.

There has been a stark contrast in affordability trends across mainland capital cities. Both Greater Sydney and Greater Melbourne have improved in affordability, both during the COVID-19 pandemic and over the longer term.

The point this report makes is that Hobart is now worse. In further comments recently in the media, reported in *The Mercury* on the 1 May 2022, the Tenants Union claimed that over the past five years rents have increased significantly with Hobart seeing a 45 per cent increase in that time. Launceston, a 49 per cent increase; and the north-west a 27 per cent increase. The Tenants Union says the data tells us Hobart is now more expensive to rent in than in Perth, Adelaide, Brisbane and Melbourne. That picture is even more stark when we really dig down and look at the detail that is presented in Anglicare's Rental Affordability Snapshot in 2022 which came out just last month. It is done every April over the course of one weekend at the beginning of April and gathers information of all property types advertised for rent in the state on that weekend, including share house options. It assesses the availability and affordability of the options available for rent across 14 low income household types.

Generally, it is very grim reading. During the years I was responsible for its production as the manager of the Social Action and Research Centre in Anglicare, at that time we saw increasing intensity for our housing emergency and were just beginning to ramp up over 2015, 2016, 2017, 2018. Here we are in 2022, the affordability snapshot came out last month and it is even worse. On page 7 of the report, under the heading 'availability', it says this about the south of the state:

The decline in the number of rental properties advertised in the South has continued in 2022. There were 323 properties available this year, 25% less than last year and 75% less than in 2013. Since 2013, rental housing supply in the South has contracted by an average of 14% year on year.

Then under the heading of 'Affordability' it says:

The rental market in the South is hardest for families with children. A single person who is able to live in a sharehouse can find some options, but a family requiring a 3-bedroom property needs two fulltime wages coming in before they can afford a home in the Hobart area. A working single parent or single income family will find only a handful of properties in rural areas that they can afford.

Families on Centrelink payments have no options in the South except to pay more than 30% of their income on rent. This puts them into rental stress and is likely to cause financial hardship. Even at 49% of income, a single parent on Parenting Payment will only find six affordable 2-bedroom properties.

And, as usual, there is nothing affordable for a young person on Youth Allowance or a single person on JobSeeker. I go back to the report, where it says:

A couple receiving the Age Pension would find three affordable studio bedsits, two of which were in a rural area, but nothing larger.

A [single] person receiving the Age or Disability Pension would find 5 affordable sharehouses. Sharehouses are often unsuitable for people in these groups, but standalone units are out of their price range.

This is the situation we are in with housing affordability. This is why I find it offensive that the Government trots out claims about addressing housing affordability to put a little veneer on this bill, which is a gift to property owners who are most likely all securely housed, and pretend that it is about housing affordability and assisting those who are struggling in the current context. Our current context is utter market failure and this bill does nothing to address that.

Governments can do things to address it. This Government is doing other things towards that and I will speak on that in a moment. In the Gratton Institute's submission to a Commonwealth parliamentary inquiry into housing affordability in 2021, they note in their summary:

It took neglectful governments more than two decades to create Australia's current housing affordability mess. They preferred the easy choices that merely appear to address the problem.

The politics of reform are fraught because most voters own a home (and many own investment properties) and mistrust any change that might dent the price of their assets. But if governments keep pretending there are easy answers, housing affordability will only get worse.

I agree with the Grattan Institute on that.

I will speak briefly about a couple of examples of what other jurisdictions are doing which show that it is possible to use land tax measures to deliver genuine outcomes on those areas the Government is talking about.

If the state Government was genuinely looking to pull every lever they had available to them in addressing this housing affordability emergency, they would look to implement measures like the ACT's Land Tax (Affordable Community Housing) Determination from 2021. The website describes it thus:

A parcel of land is deemed eligible for an exemption if the owner of that land enters into an agreement with a registered community housing provider and makes the parcel of land available for the purpose of affordable community housing.

Rentals under the agreement with the registered community housing provider must be at a rate that is less than 75 per cent of current market rent. That is a measure the ACT is undertaking to encourage people, through land tax relief, to make their properties available for more affordable community housing.

In New South Wales there is a build-to-rent scheme with the explicit purpose of boosting new rental supply. It was outlined on the New South Wales Government website on 24 March 2022, under the heading 'Land tax build-to-rent':

The NSW Government introduced a land tax discount for new build-to-rent housing projects until 2040 and a new Housing Diversity SEPP to provide more housing options, greater surety for renters, boost construction and support jobs during the COVID-19 recovery.

Eligible Build-to-Rent (BTR) properties will receive a 50 per cent reduction in land value for land tax purposes. The effect of this is that land tax will be reduced. BTR developments will also receive an exemption from foreign investor duty and land tax surcharges (or a refund of surcharges paid).

These are just two examples. We have a lot of levers available to us. Even a measure like the one described in this bill could be better directed to deliver the outcomes it is vaguely claiming it is about. We could have a requirement that some of it is to be passed through to tenants by owners of rental properties with residential tenants. We could contemplate all manner of things to make this a more genuine and effective measure.

Ms Rattray - Is the member aware of whether the people who are going to be renting have to come from the public housing waitlist?

Ms WEBB - Are you asking about the measures from those other jurisdictions? Certainly for the one in the ACT because it is linked to the community housing providers, who would facilitate housing for people on their register the way it happens here. The New South Wales build-to-rent scheme is more about boosting supply to try to get more affordable housing through the supply of rental housing.

I do not want to get bogged down in those examples and argue that that is what we should be doing here. We should always determine the most appropriate measures for our own jurisdiction. It was more about linking the policy being suggested with the outcome you are claiming to want to deliver, which the Government has utterly failed to do. They have pretended that there are two outcomes they are interested in from this bill when they are simply gifting free tax relief to people they like - people who are in the property class, people they believe need a gift. That is not my view.

The Government here is doing numerous things towards improving housing affordability, to address some of the issues in our housing market. We hear regularly from the Government, from the previous premier and, no doubt, we will hear from this new Premier about these measures, and certainly in the upcoming Budget. They have even claimed in the other place that they are doing more than any other government in the history of Tasmania, which is an extraordinary claim.

You cannot claim you are pulling every lever if you are not. If we acknowledge that we are in a housing affordability emergency and we look at those people - we all know about them because they come to our offices. However, the ones who are even more concerning are those who do not come to our offices, because they are in the most extreme circumstances. The people who are in those cold cars, or in those tents in the bushland on the verges of our highways, are of most concern here. If we genuinely want to pull all the levers, the Government would do what it is already doing - that is fine - but it would also consider things like reforming our Residential Tenancy Act and have it brought up to date to contemporary standards to deliver better outcomes for tenants, and more security and more affordability.

Something as straightforward as a rental increase cap can be entirely reasonable. You could make it the case that rents can only rise by CPI, or CPI plus a small margin, each year. As simple as that - no detriment to landlords to raise rents by that amount, especially if they are being given a gift through this bill of less land tax to pay. No detriment to capping rents, but it would mean we would not have the people we are all seeing in our offices coming to tell us about their rents that have just been put up by 30 per cent, or 40 per cent, that have just been put up by \$150 a week or the like. We all hear these stories. That kind of increase in rent is absolutely unacceptable. It is unconscionable. It is pure greed, and the reason we can do it is because our Residential Tenancy Act allows it. Our Residential Tenancy Act provides that the only constraint on rent increase is that it has to be market equivalence. However, because our market is going gangbusters, as soon as the guy up the road starts charging this high amount, everyone else around can argue market equivalence and bump theirs up to the same. Nothing happened to the house to justify that increase, but because it is possible to do it, that is what we are seeing. That is one measure we could be doing, through reform of the Residential Tenancy Act, and there are many other things that we could deliver to those most vulnerable people through reform of that act.

We could do the things that have been called for in the public domain by advocates in this space, if we genuinely wanted to deliver significant benefit and change in housing affordability, and address the emergency that we face. We could look at vacant property taxes, or capping the movement of whole dwellings from our private rental market into the short-term accommodation market. So far, we are tinkering around the edges. We are not even delivering catch-up through what has been proposed. I say proposed, because the announcement of around a billion dollars and the 10 000 homes over a decade is laudable. Until we see it delivered we cannot rely on it, and it certainly is a longer term outcome. It is not doing anything right now, and this bill is doing nothing to accompany it and deliver a better outcome.

We know the federal government could also step up. We would like to see the federal government address this sort of thing through increasing JobSeeker and rental assistance, providing funding to build more social and public housing, and taxation reform on a federal level.

Mr President, I do not support the bill, because I do not support the policy that is in it. I consider it is utterly ham-fisted and problematic in design. It lacks an evidence base or anything that says this is the right thing to do or indicates it is delivering the outcomes it makes claims to. In a sneaky way, it is delivering an outcome that I consider is perverse in the current context. It delivers benefit to those who are unlikely to be amongst those most vulnerable to, or most affected by, cost of living and affordable housing challenges. I encourage the Government to investigate those other public policy measures that could be implemented, whether we draw ideas from interstate jurisdictions, or we look at those other things that are available to us within our current context. If they do want to make changes to land tax, I encourage them to think about making it more directly linked to the outcomes put forward. Put something in there that requires a downward movement in rents, for example, rather than a fanciful suggestion that it might occur.

In considering this bill, we have to ask ourselves what value will the state receive for foregoing the revenue that is represented in it - that \$39 million? Is that best use of our shared resources, this gift to property owners?

We should be very careful in our current context, knowing the pressures on our state budget, and the many responsibilities the Government has to meet in this current COVID-19 pandemic. We should be particularly careful about how we allocate our resources. I put it to this Chamber and to the community that \$39 million as a gift to people like us is the wrong way for us to be investing precious dollars from our state resources when we know that there are people out there in much more dire need for the services and support that could be delivered with that money.

[12.57 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, the member for Murchison and the member for Nelson posed quite a few questions. I undertake to compile a list of the things that we are doing to help those people and will email all that to members for their information.

Ms Webb - Through you, Mr President. That was not a question. I did not ask for a list of things that you are doing to help anyone.

Mrs HISCUTT - The member for Murchison wanted to know what we were doing; and I will get the answers to your questions to you as soon as I can.

Mr PRESIDENT - The question is that the bill be now read the second time.

The Council divided -

AYES 11

Ms Armitage
Mr Duigan (Teller)
Ms Forrest
Mr Gaffney
Mrs Hiscutt
Ms Howlett
Ms Lovell
Ms Palmer
Ms Rattray
Mr Valentine
Mr Willie

NOES 1

Ms Webb (Teller)

Bill read the second time.

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

QUESTIONS

Midway Point Intersection Project

Mr VALENTINE question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.32 p.m.]

Mr President, seeing as I missed out yesterday, I have tuned the springs up.

In relation to all land-based work for the installation of the new intersection and duplication of the Tasman Highway between the two Midway Point causeways, can the Government please provide the following details:

- (1) Original cost estimates, both P50 and P90, for each project involved with that work, including:
 - (a) Base cost estimate
 - (b) Contingency
 - (c) Total project cost estimate

- (d) Escalation
- (e) Total out-turn cost estimates?

ANSWER

Mr President, I thank the member for Hobart for the question.

The Midway Point Intersection Project, jointly funded by the Australian and Tasmanian Governments, is a key part of the South East Traffic Solution, which aims to improve safety and travel time reliability along the Tasman Highway, between the Hobart Airport and the southern beaches.

The Midway Point intersection solution will construct two lanes in each direction through Midway Point and replace the existing Tasman Highway-Penna Rd roundabout with a new intersection operated by traffic signals.

Improved footpaths and bus facilities will also improve access in and around Midway Point, and the project will align with the future duplication of the Sorell and Midway Point causeways. The project will improve the flow of traffic through Midway Point, increase vehicle capacity and improve travel time reliability for all road users.

Budget Item	P50	P90
Base cost estimate	\$36 955 586	\$36 955 586
Contingency	\$5 688 414	\$8 291 214
Total project cost estimate	\$42 644 000	\$45 246 800
Escalation	\$2 392 792	\$2 540 806
Total out-turn cost estimates	\$45 036 792	\$47 787 606

Mr President, can I check something because I am concerned I read a figure incorrectly, so can I re-read that just to make sure? The base cost estimate P50, \$36 955 586 is the correct figure for that.

University of Tasmania Hobart Campus Relocation

Ms WEBB question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.36 p.m.]

Mr President, my questions are for the Deputy Leader of the Government.

- (1) Can the Government clarify any specific elements of the Hobart City Deal that relate to the University of Tasmania, including the amount of any funding that is attached from the federal and state governments?
- (2) Is the Government aware of concerns raised regarding the workplace culture and treatment of staff at the University of Tasmania?

- (a) Have these concerns been raised with the Government, either with the minister for Education or via constituents, to any Government members of parliament?
 - (b) If so, what actions has the Government taken in response?
- (3) Is the Government aware of concerns regarding the departure of staff from the University of Tasmania in recent years, including the 16 of 23 staff who departed the law school by late 2021?
- (a) Have these concerns been raised with the Government?
 - (b) If so, what actions has the Government taken in response?
- (4) Noting the recent concerns reported in the media raised by members of the Tasmanian legal fraternity and law students at the University of Tasmania in relation to the content and delivery format of law courses,
- (a) Has the Government received any representations from the legal fraternity, students or other groups, on these reported concerns?
 - (b) If so, what actions has the Government taken in response?
 - (c) Has the Government sought any information or clarification from the University of Tasmania on these reported concerns?

ANSWER

Mr President, I thank the member for Nelson for her questions.

- (1) The Australian and Tasmanian Governments, and the four Greater Hobart councils released the original Hobart City Deal document in February 2019. The document points to broad support for the University of Tasmania to prepare a project plan for an enhanced Science, Technology, Engineering and Mathematics presence in the Hobart community, taking into consideration the housing and transport needs of both students and staff.

Given the broad focus of the Hobart City Deal on city-shaping actions like transport, housing and precinct planning, it was considered reasonable to ensure that visibility was maintained on this work, given the potential significance of the university footprint.

In October 2019, City Deal partners released the first Hobart City Deal implementation plan. The transformation and relocation of the southern campus is being self-funded by the university. However, to maintain visibility, the governance supporting the Hobart City Deal includes a commitment to a reference group to help coordinate and align the university plans and the Hobart City Council's development of its central Hobart precinct plans. The City Deal partners continue to provide support through regular liaison with the university

at officer level to align and coordinate efforts to assist the integrated delivery of City Deal actions.

- (2-3) Employment matters relate to the operations of the University of Tasmania and are ultimately the responsibility of the University Council.

Ms Webb - Through you, Mr President, the questions were quite clearly directed to the Government about their awareness of concerns et cetera. Clearly that answer is entirely insufficient.

Ms PALMER - I will give you the answer the Government has provided. I will continue.

- (4) The Government is aware of concerns regarding the Bachelor of Laws course delivered by the UTAS Law School. Higher education course content, quality and delivery are the responsibility of the University Council, and the Tertiary Education Quality and Standards Agency, which has regulatory oversight.

Acknowledging this, as one of the largest employers of law graduates in the state, the Department of Justice and the Attorney-General, the Honourable Elise Archer MP, have a very strong interest in the training and development of law graduates. The Department of Justice will continue to engage with UTAS, the Dean of the Law School and student representatives as well as other key stakeholders including the Law Society, the Chief Justice and the Chief Magistrate.

Rock Lobster Fishery's IMAS Stock Status Assessment

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

[2.41 p.m.]

Mr President, the Institute for Marine and Antarctic Studies undertakes an assessment of the rock lobster fishery each year using a comprehensive model to provide stock status and future estimates. Does the minister have confidence in the IMAS stock status assessment process? And following on from a question I asked yesterday, which was not answered: Is the minister personally confident that the proposal to expand the 60-pot area is sound?

ANSWER

Mr President, I thank the member for her question. On the 11 February 2022, it was announced the Government will commence consultation on the next East Coast Rock Lobster Stock Rebuilding Strategy. The Government has been open about the critical state about the east coast stock levels, highlighting that stock assessment of zone 2 has only reached 10 per cent unfished biomass. That is why we are accelerating development of the next strategy and putting in place new tools and controls on the fishery so it can become more sustainable. We remain committed to rebuilding stocks to the critical 20 per cent unfished biomass target.

It would be reckless for the Government to slash the commercial sector overnight. We have taken the responsible step to reduce the east coast commercial catch by 10 tonnes and to initiate a process of genuine consultation during 2022 with both the commercial and

recreational sectors on a new harvest strategy and resource sharing arrangement. We all want to see access to the fishery continue and at the same time, ensure it is sustainable for future generations.

Ms LOVELL - A supplementary question. I understand the information the minister has provided, but my question was in relation to the IMAS stock status assessment process and whether the minister has confidence in that process, and whether the minister believes that the proposal to expand the 60-pot area is sound.

Ms PALMER - Mr President, I thank the member for her supplementary question. I am really committed - as the Government is - to this process and to see it approved. There should be no doubt about that, as I stated yesterday in this place. I am committed to working with stakeholders and as I only have been in this position for a number of weeks, I am striving very hard to make contact - not just telephone conversations, but face-to-face interaction with them. With regard to IMAS stock, I am going to take that question on notice, I will seek some advice and will have an answer for you.

Firefighting Measures on the *Spirit of Tasmania*

Ms ARMITAGE question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.44 p.m.]

Mr President, *Felicity Ace*, a 60 000-tonne vessel recently caught fire in February 2022 and sank in the Atlantic Ocean with 4000 luxury vehicles worth an estimated \$400 million. According to the captain this was possibly owing to a fire fuelled by lithium ion batteries and electric vehicles on board. With the increase of electric vehicles, and given that vehicles are imported to Tasmania by sea, can the Deputy Leader please advise:

- (1) Is the *Spirit of Tasmania* equipped to manage fire risks of this nature given that fires in electric vehicles burn hotter, faster and require much more water to extinguish?
- (2) Can you please provide specific details on fire-risk management aboard the *Spirit*?
- (3a) Will the new *Spirit* vessels be equipped with adequate firefighting measures, particularly with regard to electric vehicles?
- (3b) What firefighting measures specifically will be equipped on these vessels?

ANSWER

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

Ms Armitage - Even more interesting, Paris has just taken their buses offline because they have been catching on fire.

Ms PALMER - It is a most interesting question.

- (1) Yes, both *Spirit of Tasmania* vessels are equipped with a firefighting water deluge system on all vehicle decks, capable of being run continuously. The ships are designed to shed water from the vehicle decks where electric vehicles can be stowed, thus ensuring the ships remain stable and upright and are not affected by accumulation of water on a sealed deck whilst dealing with a fire.
- (2) Both vessels have a classification society approved fire plan on board. This plan has also been endorsed by the Australian Maritime Safety Authority (AMSA). The vessels' plans are regularly audited. Fire detection systems are tested weekly, and firefighting systems are tested in accordance with AMSA requirements.

Additionally, these systems are checked by an approved and licensed third party. The vessels' crews conduct regular drills in accordance with flag state requirements and also undertake firefighting training provided by the Australian Maritime College.

- (3a) Yes, the TT-Line's new vessels will also shed water through freeing ports so continuous firefighting operations can be conducted without introducing free surface effect instability associated with water accumulation on a sealed deck, which could compromise stability.

The new vessels will be fitted with extensive fire detection systems monitoring both heat and smoke throughout all of the vehicle decks. Early detection of any fire is a key factor.

A fixed drenching system is fitted in all vehicle decks. Additionally, fire hydrants are fitted throughout the vehicle decks. These systems meet the statutory requirements which are required by international conventions and national authorities.

- (3b) Regarding water drenching systems and fire hydrants, special attention has been paid to areas where charging systems are fitted. The drencher system near the charger systems has been given special attention, with drencher nozzles being placed in close proximity to the charging outlets.

Ms ARMITAGE - Mr President, my understanding is that the electric vehicles that have been catching on fire have not been charging at the time. It has simply been their batteries.

I accept that they meet Australian standards or international standards, but are they specifically to electric vehicles? I understand your point that foam and water are there on different decks but my understanding is that electric vehicles may require more firefighting equipment than with other vehicles.

I will put some supplementary questions about fire risk management on the notice paper, Mr President.

Legislative Council Elections 2022 - COVID-19 Safety Measures

Ms WEBB question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.49 p.m.]

With regard to this year's Legislative Council elections to be held on Saturday 7 May, can the Government advise of any COVID-19 contingency arrangements in place to ensure no enrolled electors for the electorates of Elwick, Huon and McIntyre will be disenfranchised but will have opportunity to vote safely? Specifically:

- (1) Have Public Health and the Tasmanian Electoral Commission (TEC) consulted on how to ensure that:
 - (a) electors subject to a direction to isolate or quarantine due to receiving a positive COVID-19 result on or after the postal vote application cut-off at 4 p.m. Friday 29 April, are able to vote in the Legislative Council election in a way that manages public health risks?
 - (b) electors subject to a direction to isolate or quarantine due to being a close contact - obviously some of these are out of date now. I apologise to members for that and note that question no longer applies. We can probably skip over it.
- (2) Have Public Health and the TEC investigated providing voter packs, as provided to COVID-19-impacted electors in the March 2022 South Australian state election, for any electors who have COVID-19 or who are experiencing COVID-19 symptoms or are a close contact for someone with COVID-19 and are required to isolate or quarantine for a period including polling day?
- (3) Whether mobile polling stations will visit aged care facilities within three upper House electorates to facilitate COVID-19-safe polling day voting options for those facilities' staff and residents?
- (4) Whether mobile polling stations will visit hospitals and/or hospices within the three upper House electorates to facilitate COVID-19-safe polling day voting options for those facilities' staff and residents?
- (5) Whether all Tasmanian Electoral Commission staff and volunteers staffing polling booths and TEC staff and volunteers and candidate scrutineers in counting facilities will be required to be fully vaccinated?
- (6) Whether a public information campaign broader than solely the TEC website will be undertaken to inform electors of those three upper House electorates how to vote should they be impacted by COVID-19, if they experience COVID-19 symptoms after the postal vote application closure date?
- (7) Will electors unable to vote due to experiencing COVID-19 symptoms, have COVID-19 or are a close contact of someone with COVID-19 be subject to fines for failure to vote?

ANSWER

Mr President, I thank the member for Nelson for her question. Honourable member could I seek clarification from you, were you saying to skip over question (1)(a) and (b)?

Ms WEBB - (1b) because our close contact arrangements have changed.

Ms PALMER - So, still answer (1a) for you?

- (1a) Tasmanian Legislative Council elections are independently conducted by the Tasmanian Electoral Commission as set out under the Electoral Act 2004. Accordingly, this information has been sought from the TEC. Under section 108 of the act, an elector has the right to vote at a polling place on polling day or, if unable to attend a polling place on polling day, they can vote earlier, either by completing a pre-poll vote at a polling place open before polling day or by applying for a postal vote by the cut-off date and have their completed ballot paper received by the returning officer within the 10-day period after polling day.

Similar to Tasmanian parliamentary elections in August 2020 and May 2021, the TEC has advised it will include a range of COVID-19 safety measures at all polling places. The TEC has been working with Public Health over the past three months to establish arrangements for these electors to vote in this scenario. For those in isolation (with COVID-19) on polling day the Director of Public Health, Dr Mark Veitch has signed the following direction as at the 14 April 2022:

Isolation - No. 7 allows a person in isolation to leave his or her suitable place for the purpose in an election within the meaning of the Electoral Act 2004, if the person:

- is eligible under section 108(1)(c) of the Electoral Act 2004 to vote at a mobile polling place within the meaning of that act;
- travels directly to and from the mobile polling place;
- only uses a private vehicle to travel; and
- wears a fitted mask covering while away from his or her suitable premises.

This direction enables electors with COVID-19 to be able to attend specially designed drive-through polling places (deemed mobile polling places) where they can vote from a car in a COVID-19-safe way. Drive-through polling places will be available in each Legislative Council division and only be available for electors with COVID-19 and those close contacts (in quarantine) who may drive the elector in isolation to the polling place. Access to these polling places will only be given to those electors deemed to meet the criteria of the above direction and will be confirmed by a special text or email confirmation received following a phone call to the TEC which must be presented at the drive-through polling place.

Under division 10 of Part 5 of the act the TEC also has the power to approve special procedures for electors considered remote. More specifically, the TEC may approve special voting procedures for those who cannot vote under any other voting provisions under the act. In accordance with this power, the TEC has approved procedures to enable eligible electors with COVID-19 (who are unable to attend a drive-through polling place) to complete a telephone vote. This service will be available during TEC business hours in the last week of early voting and between 8 a.m. and 6 p.m. on polling day.

- (2) Public Health and the TEC have established special drive-through mobile polling places for electors who have COVID-19. All other electors will be entitled to attend a pre-poll or polling day polling place.
- (3) Consistent with the TEC position for all parliamentary elections conducted since 2020, due to their significant vulnerability to COVID-19, as a health precaution the TEC is not conducting mobile polling services at aged care facilities for these elections. Special arrangements have been established with the relevant nursing homes and hospitals where a staff member within each institution can coordinate a bulk postal voting service. As with the 2020 Legislative Council elections, given the uncertainty of the changing COVID-19 environment, the TEC mailed a postal vote application to every elector to ensure they have time to use this service if they felt they may not be able to attend a polling place on polling day.

For this election, postal vote applications must be received at the TEC before 4 p.m. Friday 29 April 2022.

- (4) Consistent with the answer above, due to their significant vulnerability to COVID-19, as a health precaution the TEC is not conducting mobile polling services at hospitals for these elections. Special arrangements have been established with the relevant nursing homes and hospitals where a staff member within each institution can coordinate a bulk postal voting service.
- (5) For the 2022 Legislative Council elections, the TEC advises that all election staff are required to be fully vaccinated and to wear a mask at all times when undertaking their election duties. All scrutineers must also wear masks when scrutineering.

There are no volunteer staff at Tasmanian elections. I am further advised that all polling places will also have the following COVID-19 safety measures:

- hand sanitisers available at every entrance;
- a queue controller will be employed to greet electors and encourage people to use the sanitiser and keep a suitable distance from each other;
- floor markers will be placed to encourage electors to remain 1.5 m apart while in the polling place;
- single use pencils will be made available for people to use when completing their ballot paper; and

- only every second voting screen will be used to ensure separation between electors.
- (6) The TEC has advised that elector brochures are mailed to every elector - in addition to television and radio campaign advertisements (aired after the PVA cut-off period) - which include the instruction that those in isolation on polling day can contact the TEC for voting options.
- (7) Under division 15 of Part 5 of the act, all electors who do not have their name marked off the election roll will be subject to the non-voter process. Electors receiving an 'apparent failure to vote notice' can respond in one of three ways. Pay a fine; provide information on where, how they voted; or provide a reason why they were unable to vote. The TEC advises that all reasons submitted, including any relating to COVID-19, are assessed as to whether they are considered a valid and sufficient reason for that election. For example, electors whose postal votes are not received before the end of the 10-day period are considered to have attempted to vote and therefore have a valid and sufficient reason for not voting.

Rock Lobster Fishery's IMAS Stock Status Assessment

Ms LOVELL question to MINISTER FOR PRIMARY INDUSTRIES AND WATER, Ms PALMER

[2.59 p.m.]

Mr President, the minister must know she has a problem and one she must get across quickly, as time is of the essence - a vulnerable rock lobster fishery and a disgruntled fleet of fishers. What will the minister personally do to assure herself as the responsible minister that the proposed changes to the 60-pot areas are in the best interests of the fish and of our local Tasmanian fishers?

ANSWER

Mr President, I thank the member for her question.

Tasmania's highly sought after southern rock lobster fisheries are a major Tasmanian seafood sector, providing significant benefits from the commercial fishery, a highly popular and iconic recreational fishery, and important Aboriginal cultural fisheries.

Extensive consultation is now underway to remake the rules for the rock lobster fishery, the management plan and also canvassing options for better rebuilding east coast stocks. With the rules due to expire, the rules must be remade. The proposals include some key changes, including regional size limits to better align size limits to growth and maturity by area, and provide increased resilience.

The proposals also seek to introduce vessel monitoring systems on all commercial rock lobster vessels. For the important east coast area, the paper seeks feedback on options to rebuild rock lobster stock in that area. Importantly, my department is undertaking genuine consultation on the rules and options for rebuilding east coast stocks and the community is encouraged to put their views forward.

We need to ensure that evidence-based science and the interest of stakeholders are fully considered, because that is underpinning the consultation process. I have already stated a number of times in this place my dedication to getting out to stakeholders, to hearing what they have to say. This is not a matter of me saying what I think; it is a matter of me listening to those stakeholders, and I have made a commitment in this place to get across this as quickly as I possibly can.

LAND TAX RATING AMENDMENT BILL 2022 (No. 6)

In Committee

[3.02 p.m.]

Madam CHAIR - Before we start, I remind members that this is a bill imposing taxation. As members would know, in accordance with the Constitution Act provisions, Standing Orders and convention, the Council as an upper House has no power to amend a tax bill, but may request an amendment. The rationale for these provisions reserve to the executive government, which is formed in the other place, the initiative in proposing appropriations and impositions of taxation without affecting the substantive powers of the Council.

Accordingly, when the Deputy Clerk calls these clauses, I will pose the question 'any request', and the members may then speak to the clause. If you want to look at where these provisions are in our legislation and Standing Orders, it is the Constitution Act 1934, section 42(1)(c), and standing order 308. If there are no requests, the clause will be then be declared agreed.

Clauses 1, 2 and 3 agreed to.

Clause 4 -

Schedule 1 amended (Rate of land tax)

Mr VALENTINE - Madam Chair, I look at the dollar values that are stated in this particular clause, and note that there is an 18.1 per cent drop in value for land for every dollar above \$100 000 to just below \$500 000.

I found the member for Nelson's analysis very interesting. I am really wanting to know which category of people or transactions this is expected to benefit. Is there any benefit expected here, or have these changes been made for the benefit of shack-owners, for instance? Do we have any analysis at all with regard to who this is supposed to benefit?

Mrs HISCUTT - It is people that own general classification land. It is not primary production or anything like that. I will get the breakdown for you. It is just general land.

Mr VALENTINE - You are saying you will get that after the bill has been voted on. It is not available right now?

Mrs HISCUTT - I made that clear in my summing up that my advisers have not had the time to do that breakdown. They will do it, and it will be given to you and to the member for Nelson.

Mr Valentine - Thank you.

Ms RATTRAY - Madam Chair, I missed the call earlier today and I apologise to the House, and to my constituents, about that.

I place on the record that I own a rental property, seeing that we have a declaration in this House. It is only right and suitable to do so.

My question concerns a reference in the former Premier's state of the state Address about this initiative being a crucial factor in increasing housing supply and improving affordability, in the availability of land, and it indicated there were about 5000 hectares of vacant land zoned for residential use which could yield up to 60 000 residential lots.

I am interested in understanding where those residential lots are. That will take some time, but obviously someone has done the research to be able to put that in to the Premier's Address. I would have asked that question in the second reading contribution, had I not been too slow to get to my feet.

I am interested in whether there is some matrix of where those parcels of land might be, because if they are all close to the city, it might not necessarily assist out in the more rural and regional areas.

I would be happy to have that information, along with all the other information that will be provided to members, and it may not necessarily be provided today.

Mrs HISCUTT - That is not the realm of the advisers that I have here, or part of this bill.

How did you want to proceed? Do you want me to copy and paste that out of *Hansard*, or would you like to put it as a question without notice?

Ms RATTRAY - Copy and paste out of *Hansard* would be fine, Leader. You have more staff than I do.

Mrs HISCUTT - Will do.

Mr VALENTINE - Third call. I will also declare an interest, in that I am a shack-owner. I did not ask that question before simply because I own a shack. It was really just to understand exactly what motivated this.

My question goes to clause 4(d) where the value there is a 6.33 per cent drop in the flag fall, if I can put it that way - \$1975 down to \$1850 - and then there is a 25 per cent drop in the overall value, from \$500 000 down to \$400 000 in clause 4(e). While you do not have the information with regard to the categories of landowner you are seeking to benefit, can you in any way share why these particular percentages were arrived at? There must have been some rationale for these percentages. First, the one that I spoke of - 18.1 per cent for every dollar above \$100 000; 6.33 per cent drop for the flag fall; and 25 per cent lift in the overall value. Can you give me some understanding of what model was used?

Mrs HISCUTT - Land tax relief can be provided by either increasing the thresholds of which land tax is payable or by decreasing the rate of tax or both. The Government considers it appropriate to amend both the land tax thresholds and rates to give a direct monetary saving to those people who pay land tax. The Government also hopes that in the case of rental properties, these changes will reduce the likelihood of rent increases due to rising land values.

Land values under \$500 000 will now be subject to a rate of 0.45 per cent rather than 0.55 per cent previously. These figures were chosen because they were an average of what was there at the time. It is hoping to give a little bit of relief to the owner who will hopefully pass it on.

Clauses 4 and 5 agreed to.

Title agreed to.

Bill without request agreed to.

SUSPENSION OF STANDING ORDERS

Pass all Stages - Forest Practices Amendment (Validation) Bill 2022 (No. 13)

[3.14 p.m.]

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

That so much of Standing Orders be suspended in respect of this bill in order that the bill may pass through its remaining stages at such time as the Council may appoint.

Mr President, the Minister for Resources wrote to all members on Monday and included a copy of the bill. In his letter he explained why he considers this an urgent matter and why we, as a government, consider it as an urgent matter and hopefully, that message came across this morning in our briefings.

The bill is being introduced to provide certainty for a critical industry. The bill also seeks to resolve what can be described as a longstanding and highly technical administrative matter. That issue relates to the manner and construction of a delegation issued under the Forest Practices Act 1985, and it is because instruments of delegation have been issued in a similar form since the act commenced some 37 years ago. To be clear, the issue at hand is related to the construction and form of instruments of delegation, not the safety or appropriateness of forest operations undertaken on ground. This bill simply seeks to remove doubt. By removing doubt, this parliament can provide much needed services to the industry, and it is essential to both historical and ongoing forestry operations that such a matter is dealt with in a timely manner.

The Government has chosen to act swiftly in this manner, and I hope that members of the Legislative Council will agree to the suspension of Standing Orders to deal with the bill as quickly as possible to provide certainty to the industry.

Ms FORREST (Murchison) - As I have often done, I have risen to raise concern about rushing things through this place and I have been cooperative with governments, both this colour and the previous, in terms of really urgent legislation. Even legislation that we are told is very urgent, that seems very straightforward, that seems to correct an anomaly or some other problem, sometimes turns out to be not quite the case once you have had more time to look at it. We sometimes find ourselves back here again fixing a problem because of undue haste. I make those points to support the comments I am going to make and I will ask you to pull me back if you think I am going too far into dealing with the bill itself, but some of it needs to be said to challenge this request of the Leader's.

As the Leader rightly said a moment ago, the minister sent a letter and a copy of the bill on Monday - that is two days ago - with no other information. A highly technical problem with no information, other than a letter saying, "Please deal with this, it's all fine, nothing to see here," and a copy of the bill, which said it was draft. I assume there have been no changes made to that. Some of us travel on Mondays to get here, some of us have other committee meetings on Mondays to deal with as part of our parliamentary duties, rarely are we off swanning around doing not much on a Monday. Not that the Leader suggested that for a second.

Yesterday, we received the second reading speech, thus a bit more information. We received the caller's notes, we received the fact sheet yesterday. Yesterday, we were sitting all day, some members could get in and out of the Chamber. I could not, because we were dealing with my business because I was benched a couple of weeks ago and could not get it done then. That is COVID-19 for you. There are other members who spend a lot of time in the Chamber too and would not have had time to go and read it. I was not even aware I had received it and I had commitments yesterday evening - related to my work - which meant I could not even look at it until this morning. We had a committee meeting this morning, and then briefings. This is not a sob story, this is the reality of being asked, as an Independent member in this place, to fully assess a technically complex situation that is legalistic, technical, and retrospective and that is where my deep concern is based.

I understand the Government wants to deal with this urgently and I understand that it is important to have clarity. I understand as much as - perhaps more than - some members in this place, how important our forestry industry is to our state and to my electorate. It is not that I do not understand how important it is and understand how it is important for clarity around these things, I do. I also understand my role here is to make sure that things are right, as much as we can. We never get it all right 100 per cent of the time, that is an unrealistic expectation on anybody.

The minister made the announcement on 6 April to say that this had been identified as a potential problem and it needed clarification and some certainty. At no point in our briefing this morning - and I do appreciate the briefing, it was very helpful. I know I put the department and staff under enormous pressure to try to answer the questions I had because we have been expected to deal with this today. I cannot remember what day parliament was prorogued. I am pretty sure it was after that day. Anyway, it was not the decision of this House to prorogue parliament. That is not our job. I sort of understand why it was prorogued. The Labor Party did offer a pair which meant it was not necessary from that perspective and the Government still had its numbers, had a commitment from the Opposition. I commend the Opposition for being cooperative in that manner. However, the decision was taken by the then-premier, Mr Gutwein, to go to the Governor and seek prorogation, which she agreed to.

Ms Webb - It was 29 April, for the member's benefit.

Ms FORREST - Yes, it was after that. It was the Government's decision to prorogue parliament and thus take out a sitting week.

Mrs Hiscutt - I thought it was 10 April.

Ms FORREST - Whatever date, it was after 6 April. I would have thought the Government would have known when they did this, but there you go. The fact is parliament was prorogued and we lost a sitting week in this place. If it was that urgent, the House could have been recalled.

What is the worst that could happen with a delay of three or four weeks, effectively, until we are back here in the next sitting week? We could suggest the worst that could happen is that there are a whole heap of challenges to previously delegated instruments whereby we have all these frivolous attacks on previously issued delegation authorities.

Ms Lovell - It was in the *Gazette* that the Governor prorogued parliament on 6 April.

Ms FORREST - The same day.

Ms Lovell - It was gazetted on the 6 April effective from 6 p.m. on that day.

Ms FORREST - The same day effectively but very close to that time. I want to put on the record here that we heard at the briefing there is one case we were aware of that is a live case where, among other aspects, delegation authority is being challenged. That is a matter for the court to determine and it is right that the court does that. As was said in the briefing, this does not stop the court exercising their powers, doing their job. That is what they do and they will continue and should be able to do. But it does not mean that we should prosecute that case in here.

We are aware of one case. We were not informed of a plethora of frivolous or vexatious claims between 6 April and 3 May. As far as I know that one was already afoot and there have been no more since, or not that we have been informed of. That was after the briefing. There is one particular case that relates to other matters as well as the delegation authority arrangement.

If the Bob Brown Foundation or other similar organisations wish to create havoc, they have had a good month to do it. What is another couple of weeks to enable us to do our job properly and to make sure that we are comfortable and happy that this is necessary in the way it is drafted?

That is not a criticism of the OPC's work. We know that there was a lot of advice taken from the OPC. I understand the reason but, sadly, we do not get to see the Solicitor-General's advice on this. That might have been helpful for something as technical as this. But I know the answer to that and the look of horror on the adviser's face when I even suggested it. But the reality is that it is not actually a problem - it is a potential problem. The member for Elwick will speak for himself, I am sure, but as he said in the briefing, what this bill seeks to do is to confirm the original intent of the bill when it came in. I accept that. I received the letter from the minister on Monday. In order to try to prepare, I emailed the Parliamentary Library

immediately and said, 'Can you send me a copy of the second reading debate on the act when it was debated as a bill, and the clause notes and other supporting documentation?', which I received, and it is 50-odd pages long.

Mrs Hiscutt - This really is just to make sure what was there since 1997 is still there.

Ms FORREST - Yes, I understand that. I did what I could and I have not had the chance, because of the amount of time in the Chamber yesterday and other commitments, committee meetings and the like, to read through that debate to be sure that that was the intended outcome. That is what you go back to - you go back to the second reading debate. You go back to the clause notes related to those clauses to ask, 'is this the intention'? I do not really doubt that is the case. But I need to be sure. If legislation is needed to fix this, then I will be fixing the right problem.

In the briefing, we were told that it was narrowly focused to deal with the delegation authority in the way it was worded.

Mr PRESIDENT - Reminding members that this is on the suspension of Standing Orders so we need to keep it confined to the maturity of the bill and whether that is enough time.

Ms FORREST - When we get to the second reading debate this will be more properly prosecuted, but the proposed amendment makes it clear that direction may relate to a policy or other matters but cannot require the making of a particular decision, that is, that the direction cannot be one to fetter the delegatee's powers. So, it is narrowly focused around the actual delegation instrument. But it does say it is intended to clarify a problem that may or may not really exist but it is to be clear.

I am very reluctant to support the suspension of Standing Orders. I have not had time to satisfy myself with all the matters that I need to be assured of. I cannot see that an extra couple of weeks would be that detrimental. We have not seen a flurry of adverse activity since 6 April with regard to challenges on the delegation authority. So I am not sure that seeking the time to do our job fully and properly in this place will drop the flag for that to occur. That way we can be fully satisfied that we have taken the time we need to make sure it is right.

Bills are expected to mature in this place in three days. We have less than three hours. We have less than 30 minutes, potentially. That is hardly good parliamentary process. We can argue until the cows come home that it is really urgent or it is not urgent. I have dealt with things like that in the past, particularly our COVID-19 related emergency legislation. But I cannot see that the sky is going to fall in if we take just a couple of extra weeks to properly consider this. I will listen to other members' contributions as to whether we should suspend Standing Orders but I will take some convincing.

[3.29 p.m.]

Mr VALENTINE (Hobart) - Mr President, I, too, wonder with respect to this. I have an aversion to retrospective legislation. I do not want to go to the bill itself but we need to make sure that we have all the facts before we can fully debate this. I would appreciate more time to find out more facts and details. Whether it is likely to change the way I think about the legislation, it would have to be pretty powerful information to do that. I am inclined to not

suspend Standing Orders at this point in time, and I will listen to what other members have to say.

[3.30 p.m.]

Mr WILLIE (Elwick) - Mr President, I rise because I believe this should happen. The forestry industry is an important industry across Tasmania, particularly in regional areas. A lot of livelihoods rely on this industry. The original intent of the bill did not allow for the challenging of delegations. All we are doing is validating the original intent of the bill if we do proceed.

Yes, the native forestry space is a contested space with the environmental movement, but there are many other aspects of this bill, including plantations, quarries and roads.

I would hate for this parliament to signal to activists in our community that we are going to give you time to put forward some vexatious claims, because that was not the original intent of the bill. All we are doing is validating the original intent, which was not to be able to challenge those delegations. I consider we have to deal with this today, to give the industry certainty.

[3.31 p.m.]

Ms WEBB (Nelson) - Mr President, I rise to thank the member for Murchison and the member for Hobart for their contributions. I concur with the things that are put forward and the concerns raised. Contrary to what has been suggested by the member for Elwick, I believe that to push back on this attempt to rush this through and suspend Standing Orders is not a signal, in the way he has characterised it. I suggest it would be a signal that the members of this place want to do their job appropriately.

Pushing things through quickly puts us at risk of not doing our job appropriately and well in the way that we were elected to do. I believe that pushing back on attempts to push things through quickly against Standing Orders and suspension of Standing Orders is appropriate for us, as an indication that we take our jobs very seriously here.

Those of us here who do not have a pre-existing position on this and have come to it fresh, have had very little time to consult. We do not have instructions, we have to deal with things as they come. If we say no to this, I believe that would signal we are intending to do our job appropriately, as the House of review.

[3.33 p.m.]

Ms PALMER (Rosevears) - Mr President, thousands of Tasmanians rely on our forest industry for employment, and the industry is also the lifeblood of many of our regional communities. The impact would not just be to native forestry but to all forest practices, including plantation forestry and activities, that may require forest practices plans like roading and quarries.

Any suspension, even a short-term one, would have significant and wide-reaching impacts and consequences. There likely would be a significant, direct financial impact, a significant flow-on and supply chain impact to the broader economy, and likely job losses. In Derby, harvest and haulage contractors have had to cease work. That gives us just a small glimpse at what is at stake here, and much can happen in a couple of weeks.

The Government's intent is to provide certainty and remove doubt, and, I remind members how the industry has stated that they certainly have a need for this.

I would like to read a letter that I believe all members were given. It is addressed to the Honourable Guy Barnett, and it is from Nick Steel, the CEO of Tasmanian Forest Products Association.

On behalf to the Tasmanian Forest Products Association, we write to provide our support to the pending Bill to amend the *Forest Practices Act 1985*.

The importance of this validating legislation cannot be underestimated, as it will remove doubt and provide certainty to the Tasmanian forestry industry.

We understand that the Bill seeks to resolve an administrative matter relating to power of delegation. We also understand that this doesn't have anything to do with the legitimacy, including safety or environmental soundness, of our on-ground forestry operations.

For the continuing confidence of our industry, which includes native forests and plantations and across public and private land, we expect this Bill gets support in both houses of Parliament to resolve this matter swiftly.

Yours sincerely
Nick Steel

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

Ms FORREST - Mr President, if the Deputy Leader has read the content of the letter out, does she need to table it, and incorporate it. It is already all there.

Mr PRESIDENT - It can be tabled. It is a matter for the member if it needs to be incorporated into *Hansard*. The question is, is leave granted.

Leave granted.

See Appendix 1 on page 53.

[3.37 p.m.]

Mr GAFFNEY (Mersey) - Mr President, I have no issue with the actual amendment bill. I believe it is well worded and well written, and I have gone through it in the short time we have had. I do not have an issue with it, but I consider it sends a clear message that we should not be doing legislation on the run.

I do not feel that this is going to threaten the industry, because otherwise we are saying there must have been a lot wrong with some of those other delegations that have been passed in the first place.

There is one specific one that we know about that has been referred to in the letter. I understand and appreciate that, but I wouldn't think that any of the other ones that have gone forward would have any issues with the delegation, which this is trying to address.

I do not consider another two weeks is going to hurt. If anything, it restores confidence in the people out there, that the upper House is doing its job. I would not like them thinking, 'Oh well, the Government has said let's rush this through again,' so we do not give people out there a chance to have a say or the chance to give their elected representatives information about some of the concerns they may have with this amendment bill.

I do not support the suspension of Standing Orders.

[3.38 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I do not like retrospective legislation any more than anyone else in this House, but I probably do not see this along quite the same lines. I see it more as validating and confirming the original intent, as was stated by the member for Elwick.

I support the suspension of Standing Orders in this case. I take umbrage at the idea that we are not doing our job properly if we support it, because I believe we are.

I heard from the member for Rosevears about the concerns if we do not deal with it today. I do not believe that we do not deal with each case on its merit. Just because we are supporting the suspension of Standing Orders today, does not mean we will support every case that comes before us.

We make a decision on what we have before us. As I said, I consider looking at this bill, having had the briefing this morning. We received it on Monday. We could not do any parliamentary work, so we weren't tied up in committee.

Ms Forrest - That is a bit of a bold statement. It may be in your case.

Ms ARMITAGE - Regardless of that, I feel comfortable supporting the suspension of Standing Orders in this case and I would hope we proceed with it because of the concerns that have been raised.

Ms RATTRAY (McIntyre) - Mr President, I take the opportunity to provide my thoughts to my colleagues in regard to this. I am going to support the suspension of Standing Orders in this case and do so for a couple of reasons. I would have to be one of the biggest supporters of the forest industry in the parliament and I do that because my communities expect me to do so. Secondly, the process is available to the House. If there was not a process available then we would not even be discussing this. I somewhat agree with member for Launceston that you make your decision individually on its merits at each given time. I support it in this particular instance.

Mr PRESIDENT - The question is that Standing Orders be suspended to allow the second reading of the bill.

The Council divided -

AYES 8

Ms Armitage
Mr Duigan

NOES 4

Ms Forrest
Mr Gaffney

Mrs Hiscutt
Ms Howlett
Ms Lovell
Ms Palmer
Ms Rattray (Teller)
Mr Willie

Mr Valentine (Teller)
Ms Webb

Standing Orders suspended.

FOREST PRACTICES AMENDMENT (VALIDATION) BILL 2022 (No. 13)

Second Reading

[3.44 p.m.]

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

That the bill now be read for a second time.

Mr President, the forestry, wood and wood products sector are worth \$1.2 billion to the Tasmanian economy. The sector supports 5700 direct and indirect Tasmanian jobs, many in regional and rural areas of the state. Wood is good. It is sustainable and it is the ultimate renewable.

As the Government announced last month, the Forest Practices Amendment (Validation) Bill 2022 is being introduced to provide certainty to this critical industry.

The bill seeks to resolve what can be described as a highly technical administrative matter. To be clear, this matter - the matter which parliament is being asked to turn its mind to in considering this bill - relates to the construction and form of instruments of delegation, not the safety or appropriateness of forestry operations undertaken on the ground.

Before turning to the specific details of the bill, I would like to highlight some of the key elements of Tasmania's world-class forest practices system.

The Forest Practices Act 1985 provides the legislative framework for what is an intricate system with many interrelated elements. Importantly, the act establishes the Forest Practices Authority as the independent body responsible for administering the system. The FPA is governed by a board of directors, who have been appointed owing to their expertise and experience across a range of subject areas including environmental, natural resource and sustainable forest management.

The board is responsible for carrying out a range of powers and functions under the act. Under section 43, the FPA - through the board - is able to delegate any of its functions or powers to another person. This power of delegation has existed in the act since its commencement in May 1985. The board has historically and routinely used section 43 to empower Forest Practices Officers, who are appointed and warranted under sections 38 and 39 respectively, to, amongst other responsibilities, certify forest practices plans.

FPOs are an integral part of the Tasmanian forest practices system. FPOs receive comprehensive training in applying the act and its supporting elements, such as the Forest Practices Regulations and Forest Practices Code. I am advised there are just over 160 FPOs currently appointed under the act. Of these, nearly 100 have a delegation from the FPA to consider applications to certify FPPs.

The appropriate use of delegated authority has and will continue to be an important part of our co-regulatory forest practices system. In fact, the delegated and decentralised approvals for forest practices plans is a key objective of the system, as provided for in Schedule 7 of the act.

A delegated and decentralised approvals process is therefore essential to the system's efficiency. The effectiveness of the system is maintained through effective monitoring and enforcement by the FPA. Annual audits conducted by the FPA, and reported to parliament in annual reports, clearly show very high levels of compliance every year. The forest practices system works and this brings me to the reason why the current bill has been introduced.

Very recently, the minister was made aware of a potential issue with the particular use of a small subset of words included within a number of instruments of delegations issued by the FPA. The minister has been advised that similar wording has been used in a number of instruments of delegation dating back to 1987. It is understood that the phrasing used within these instruments of delegation, dating back over 35 years, may be problematic. This is because words used could be interpreted as creating a 'fettering' of powers.

To be clear, Mr President, the current FPA board has advised it in no way intends, or has ever intended, to fetter the exercise of a delegatee's power. What the FPA board has done, and should continue to do, is appropriately manage any risks associated with the delegation of its powers. In this context, making a delegatee subject to directions issued by the CFPO is a sound risk management tool.

In this regard it should be noted that section 39 of the act already provides the CFPO with the power to issue directions. This directions power is of particular importance in the context of the forest practices system where an FPO can be employed by an external employer involved in the industry. Making FPOs subject to the direction of the CFPO ensures that high standards for FPOs are maintained. As provided for in the act, the CFPO, who is currently Dr Peter Volker, is responsible for overseeing the day-to-day administration of forest practices. Dr Volker has over 40 years in the forest industry and, in accordance with the act, was appointed owing to his extensive expertise in forestry, forestry operations, knowledge of sustainable forest management and management skills.

In addition to seeking to validate past instruments of delegation, this bill seeks to make some minor and targeted amendments to the act to clarify the scope of the CFPO's power to issue directions. The proposed amendments make it clear that a direction may relate to policy or other matters but cannot require the making of a particular decision; that is, a direction cannot be one that seeks to fetter a delegatee's powers.

The Minister for Resources has chosen to act quickly on this matter. At this stage there has been no ruling as to the validity of any delegations. He is acting with an abundance of caution and, in doing so, is seeking to remove doubt. He is seeking to provide certainty to the industry - an industry that provides critical timber products to the Australian housing and

construction sector. We, as a parliament, have the opportunity to act swiftly on this matter and remove any doubts as to the validity of instruments of delegation.

To be clear, the parliament is not being asked to validate decisions at all. It is merely being asked to validate instruments of delegation to ensure that there is no question to answer as to their validity purely based on their construction.

This is an important bill which will provide much-needed certainty. Both the independent FPA and forestry industry stakeholders are supportive of the bill.

In concluding, we would like to thank the Office of Parliamentary Counsel for its work in urgently delivering this bill to the parliament. I commend the bill to the Council.

Ms RATTRAY (McIntyre) - Mr President, the bill before us is not particularly lengthy; however, it is somewhat complex. As I see the bill itself, it simply resolves a technical legal delegation issue by removing potential doubt about the validity of instruments of delegation issued by the Forest Practices Authority, pursuant to section 43 of the act.

In other words, it makes good any instrument of delegation issued since the act commenced in 1985, quite a long time ago. I appreciated this morning's briefing where we were provided with quite a bit of information but it was a very simple explanation by the member for Elwick which really cut to the chase about what this bill actually meant and what it was achieving.

That seems simple enough but, as is often the case, we need to look a bit further. That is being expressed not only through the briefing process but when we had the discussion around suspension of Standing Orders. The matters covered in this bill have generated a great deal of interest in our community. The wider issue it raises means the decision on this bill may not be as clear-cut as it would first seem.

With my contribution, brief as it was, to the question of suspension of Standing Orders, I indicated that I represent a community that is strongly supportive of the forest industry, and I do not step away from that.

But I have also made it known because, over the past weeks and months as you prepare for an election and a re-election, you get asked a number of questions. I have indicated to a number of people who have made contact about my support for the forest industry that I still believe that we do not do downstream processing well enough in this state. We have a long way to go to stop sending those chips to other countries, which benefit more than any Tasmanian company. That is the wrong way, so we have a long way to go.

Any legislation that applies retrospectivity needs to be examined very closely and I have never stepped away from that either. I have always been wary of retrospective legislation and believe it should only be utilised in limited circumstances where it is absolutely necessary to avoid unjustified negative consequences or ramifications for the community as well as for individuals. I stand by that.

I want to repeat that I am a strong and unashamed supporter of a sustainable forestry industry in our state. It is a renewable resource but it needs to be managed well. It is an industry that has been conducted as such in Tasmania since the beginning of European

settlement. It is an industry that supports thousands of direct and indirect jobs in Tasmania, including in my own electorate of McIntyre. We heard some of those figures in the Leader's contribution to the second reading debate. I almost thought it was written by the minister when she indicated 'wood is good'.

Mrs Hiscutt - Surely everybody knows that.

Ms RATTRAY - I was looking for those numbers again, I thought it was 7000, the number of direct and indirect jobs.

Mrs Hiscutt - It is 5700 direct and indirect jobs; \$1.2 billion.

Ms RATTRAY - Thank you. That is many direct and indirect jobs and more than \$1.2 billion injected annually into the local economy. This year Sustainable Timber Tasmania paid \$115 million to more than 673 Tasmanian businesses supporting our local communities, including \$53 million to harvest and haulage contractors.

I know a number of those harvest and haulage contractors personally and I can assure you that some of the machines that they use in a highly technical manner in the way they harvest now are very expensive pieces of machinery. Unfortunately, we had an incident in the north-east about 12 months ago where two harvesting machines were burnt. You can imagine the disruption to that job when that happened because they are not something you can access readily. We know that through that time we were living with COVID-19 and we know how long it takes to get a vehicle now.

I received a letter from the person in the parliament who arranges our changeover of cars, and the vehicle that I drive has been on order since July of last year, and it has been pushed out to November of this year, and I think that is about the fourth extension. It is not easy to access any machinery, equipment, vehicles, anything, coming into Australia. That is in the area of vehicle manufacture and we do not manufacture anything in our country, and as sad as that is, that is a fact.

To have Sustainable Timber Tasmania supporting that amount of businesses, and particularly that amount of investment into harvest and haulage for contractors -

Sitting suspended from 4 p.m. to 4.30 p.m.

FOREST PRACTICES AMENDMENT (VALIDATION) BILL 2022 (No. 13)

Second Reading

Resumed from above.

[4.31 p.m.]

Ms RATTRAY - Mr President, I took some advice during the break and it was to get on with it, so I will get on with it. Stay off the vehicles, I think were the words. I am back on subject proper, although I believed it was quite relevant.

I was talking about the value of the harvest and haulage contractors and the amount of money that had been paid by Sustainable Timber Tasmania to those 673 Tasmanian businesses supporting local communities. Interestingly and importantly, the sector actually helped keep regional Tasmanians employed during the COVID-19 pandemic.

We need to not forget that, because they were essential workers, allowed to go to work, and continue to underpin our communities with generating that economy.

The value of the forest industry to the Tasmanian community goes beyond what I have already spoken about. When you talk about almost 3000 kilometres of forestry roads that provide access to permanent timber production zones. For multiple uses including tourism businesses, bushwalking. We know mountain biking and how big that is in our communities, and of course, hunting and fishing. Very dear to a lot of Tasmanians' hearts.

Without that extensive number of roads into those areas, there would be no access otherwise. That was one of the points raised again at an earlier time when we talked about the suspension of Standing Orders. There could possibly be a pause on roads and quarries.

Millions of seeds are sown each year to regrow forests for future generations and to ensure the ongoing supply of timber for the building supply chain to help meet demand for building and construction, including the supply of much-needed housing. As we speak, there is an enormous pressure on the supply chain for the building industry.

If we have further impediments on that, again that could cause negative impacts on our communities.

As we know, forest workers protect and support our communities in many other ways as well, and we only have to address our minds back to the firefighting and to fundraising. They are always there. They are always putting their hand up and always supporting. As we say, they walk in, when others walk out.

The contribution of the forestry industry and its workers is vitally important and it concerns me there are some in our communities, some quite radical and others who sadly seem comfortable to use any excuse, perhaps including the existence of a technical legal issue, such as we have here, to attempt to effectively shut down a valuable and renewable industry.

Moving to the bill itself - I have given a bit of an overview on my position - the clause clarifies the nature of any directions by the chief forest practice officers and validates delegations made, or purportedly made, since the Forest Practices Act 1985. I understand that delegations have been issued since the commencement of the act, including under both Labor and the Labor-Greens governments, we have seen them all.

The legal concern has been raised. It relates to the construction and form of the delegation instrument and does not go to the safety or appropriateness of forestry operations undertaken on ground. We heard this morning in the briefing that in no way does this doubt removal bill undermine any of those important aspects of forestry operations.

I believe it is important to note the bill does not seek to validate any illegal activity. There has not been any finding that past delegations have been invalid and neither has been any

finding that past harvesting activities have been illegal. But there is a doubt about the validity of some delegations and this bill will remove that doubt and provide certainty to the industry.

I ask myself, what are the consequences for the industry, for our community and for individuals if we do not pass this legislation? If we do not remove the uncertainty, I, like many, would not be surprised to see those in our community who are anti-forestry arguing, perhaps in court, that all previous convictions or breaches of the Forestry Act or for criminal offences like trespass are invalid. Or that previous forestry operation has been illegal and that all forestry operation should now be suspended while the matter is resolved.

Any delay in such a manner could take weeks, months, even years. We know that it can be very difficult at times to have your case heard. This all could be because of a possible technical legal interpretation around the construction of some delegations. What a perverse and disruptive outcome that would be. The industry clearly needs to continue to operate to provide the jobs and benefits I have already spoken about.

In my mind it must be allowed to do so, without any legal or other threats as to its validity. The impacts of any shut down, even temporary, would be significant. Actually, it would be horrendous and could run into the millions of dollars. The impact would not just be to the native forest, but to all forest practices, including the plantation forestry and activities that may require forest practices plans like roading and quarries. This is about the people as well, our communities. It is about those who have put up the money to buy those harvesting machines; those people who work in the bush who drive the machines. They have families, and mortgages. If you do not go to work in the bush you do not get paid. It is hard enough through the winter months, because if it is too wet to harvest for safety reasons then they do not get a day's work that day and they do not get paid.

In Derby harvest and haulage contractors have had to cease work, perhaps showing us what might come to pass across communities in Tasmania if we do not act. Again, I stress that this bill does not validate decisions made under delegation and that there has been no finding that delegations are invalid. This is about the removal of doubt and providing certainty for the industry.

I acknowledge there has not been a long lead-time with this legislation. We often say in this place that more time would have been preferable, and I do not disagree with that. I have said it myself here. However, we have made the call, it has been supported and now we are moving forward. After considering all the circumstances leading to the introduction of this legislation, and taking into account the possible ramifications to the Tasmanian community, the individuals involved and the companies involved in the industry, should validation of past delegations not occur, I am satisfied that this is a case where retrospective legislation is warranted. That is difficult to say, because I am not a fan of it. However, we have passed retrospective legislation before so there is a precedent. I am not going to name up the various pieces of legislation. Quite a few members in this place will be able to recall them. We have done it.

In the case of those bills, as with this bill, the parliament looked at the arguments for and against the application of retrospectivity and made its decision accordingly. Mr President, I support the bill. I am comfortable that there is a genuine need to have this legislation.

[4.43 p.m.]

Ms FORREST (Murchison) - Mr President, I will try to pull my speech together; it is a bit hard because of the lack of time to prepare. I find it difficult that sometimes the workload of Independent members here is perhaps not respected as it should be, in terms of suggesting that we have plenty of time to look at these things. The letter that came from the minister did offer briefings. From memory, that came on Monday, sometime in the afternoon. I do not know when we were supposed to try facilitate those. I know that the Government, through the Leader, organised the briefing this morning but that is what we get all the time. I saw that as an offer for individual briefings.

Mrs Hiscutt - Through you, Mr President. For clarity, it was sent to all 40 MPs, so that also included the upper House.

Ms FORREST - That does not change my point. I am not sure when we were to try and schedule individual briefings. I appreciate the offer of briefings, particularly on legislation that I feel like I need to get my head around it a lot more, but I cannot possibly see we could have fitted that in before today.

Mrs Hiscutt - Through you, Mr President. It was intended that the normal Legislative Council briefing process would occur.

Ms FORREST - I have made the comment ad nauseum in this place, that it is very difficult having the briefing immediately before debating the bill, because when it raises issues that we need more information on, as we saw in the tax bill just a moment ago, we do not get it in time for the actual decision on the bill. I would like a copy of that additional information, about who are the beneficiaries of the tax bill.

Members have been gracious in allowing that bill to proceed, trusting that the information would be provided. However, that is the issue - it is on trust.

I want to go through some of the parts of the bill. It was helpful to have the briefing and a refresher about the process for the appointment of forest practices officers, and their role, as well as the delegation of authority and how broad or narrow that should be, with regard to the Chief Forest Practices Officer.

I also appreciate that when we requested a couple of copies of the instrument of delegation, they were provided to us. The instrument of delegation is the main focus and subject of this bill. Obviously, there are restrictions that were intended to be placed around that, and it is helpful to have those to see what we are actually talking about. I believe all these instruments of delegation should be made public in any case.

I disagree with the member for McIntyre's comments about the terrible harm and all the threats of action that can be taken on -

Ms Rattray - I did say 'possible'.

Ms FORREST - on all manner of aspects of forestry operations, because this is very narrow. If it does need correcting, then it is correcting a very narrow part of the bill that relates solely to the wording of delegation authorities. Correct me if I am wrong, Leader.

Mrs Hiscutt - That is the Government's advice.

Ms FORREST - Whilst from there you can challenge, that the delegated authority was not done correctly according to the wording that was used in the document that issued that authority, and then you can challenge other decisions made by the Forest Practices Officer. What we are doing here is validating that actual authority and changing the provision to make it clear what authority is being delegated.

I am happy to be corrected if I am wrong on this, because I have not had a lot of time to sit down and make sure that I am right. I do not feel entirely confident that I am. In the Leader's second reading speech, she said.

The minister was made aware of a potential issue with the particular use of a small subset of words included within a number of instruments of delegation issued by the FPA.

You have 'potential' issue, 'particular' use, 'small subset', 'number of instruments'. We are looking down a rabbit hole, trying to see where the problem is. The minister was advised that similar wording had been used in a number of instruments of delegation dating back to 1987. We were provided with two copies that showed different wording, but allegedly identifying the problem. It is hard to make an informed decision about that without having some time. It was dating back 35 years, which may be problematic. Therefore, we are being super cautious here - it may be problematic, may be a potential issue. This is why I struggle with the urgency of it.

The Leader went on to say:

To be clear, the current FPA board has advised that it in no way intends, or has ever intended, to fetter the exercise of the delegates' powers. What the FPA board has done, and should continue to do, is appropriately manage any risks associated with the delegation of its powers.

Of course, that is what we would all expect a board with any delegation powers to do.

In this context, making a delegatee subject to directions issued by the CFPO [Chief Forest Practices Officer] is a sound risk management tool.

Of course, if someone has gone rogue you need to be able to deal with them.

That takes me to the second reading and debate, and the Committee stage debate on the bill itself. There was very little debate on this particular area. In the Committee stage, there was basically no debate so it is a bit hard to say that this was clearly the intent of the original bill. I have not read the whole lot of it for the reasons I have already outlined.

Regarding the reasons why you need some powers for the Chief Forest Practices Officer, when talking about clause 38, the appointment and employment of officers, Mr Graham said:

Clause 38 (1) talks about the appointment of officers under the act. I raise again the question of whether such person should have professional qualifications or suitable expertise to be appointed as such officers. Again,

it does not mean that a person needs a degree in forestry but a person so appointed should at least have some experience in the practice of forestry. I do not intend to move a formal amendment but merely wanted to raise the matter at this stage.

Then Mr Gray said:

I think we all have sufficient faith in the commission to know that it will not employ ning-nongs to do this work.

That is a very parliamentary term, I thought. They are not going to employ 'ning-nongs' to do this work.

Suitable experience is always a difficult thing to define. A question of qualifications is also a very debatable area. Some of the best practical men have no academic qualifications.

I hope the level of debate might have improved somewhat in this place.

I guess if you ended up with a 'ning-nong' you might need the Chief Forest Practices Officer to have a little bit of authority to say, 'actually, no, you cannot do that, I am going to remove your authority'. I do not know whether they call them a 'ning-nong' or what they call them. They are probably 'inappropriate for the task'.

To continue on, in this regard it should be noted that Section 39 of the act already provides the CFPO with the power to issue directions. This directions power is of particular importance in the context of a forest practices system where the Forest Practices Officer can be employed by an external employer involved in the industry.

We are not just talking about Sustainable Timbers Tasmania or even some of the plantation operators like Forico and others. We are talking about farmers with a forest practices plan. We are talking about everybody. I assume that means contractors could be engaged to do that role so long as they were vetted by the Chief Forest Practices Officer and we are not allowing 'ning-nongs' into the business.

Ms Rattray - That is going to hang around now.

Ms FORREST - I know.

So, making Forest Practices Officers subject to the direction of a CFPO ensures that high standards of the Forest Practices Officers are maintained. Could the Leader clarify that?

It says:

As provided for in the act, the CFPO, who is currently Dr Peter Volker, is responsible for overseeing the day-to-day administration of forest practices.

And it goes on to describe Dr Volker's 40 years in the industry. I also note that he is in the Chamber, and he is very skilled. But you cannot base legislation on one person. This legislation has to endure beyond Dr Volker's involvement with the Forest Practices Authority. The reality is that you might have a really good minister, you might have a really good secretary

of a department or whatever. But it is a most inappropriate thing to base your legislative reform around that person.

The Leader goes on:

In addition to seeking to validate past instruments of delegation, this bill seeks to make some minor and targeted amendments to the act to clarify the scope of the CFPO's power to issue directions. The proposed amendments make it clear that a direction may relate to policy or other matters but cannot require the making of a particular decision; that is, a direction cannot be one that seeks to fetter a delegatee's powers.

We talked about this in the briefing in that, essentially, the Chief Forest Practices Officer can give guidance. Forest Practices Officers can go to the Chief FPO for advice or guidance, or a discussion around the interpretation of a regulation or a provision of the legislation. But, ultimately, they have to make their own decision with regard to how they apply that because they are responsible for that decision. If there is a challenge, it will be them that front up to the court if there is a legal action, not the Chief Forest Practices Officer, unless that person makes a direction. That is then subject to the action. I think those mechanisms are relatively clear.

The Leader goes on to say:

To be clear, the parliament is not being asked to validate decisions at all.

I absolutely accept that.

It is merely -

'Merely'. I am not sure that is a very good word.

being asked to validate instruments of delegation to ensure there is no question to answer as to their validity purely based on their construction.

So, it comes down to the question of the construction or the putting together and the words used in that authority to delegate. If there is a question about the validity of that, or whether it has fettered the actions of a Forest Practices Officer in some way that can lead to a challenge, which then means that some of the decisions of that FPO can be challenged and perhaps found wanting because of the way the delegated instrument is worded, then that seems a reasonable thing to clarify.

It leaves me in a situation where I just have to take it on faith basically, without the time to fully consider that this is what it is doing. As I said, it is not a reflection on OPC. I know they have worked really hard on this from what we were told in the briefing. We have heard from the Leader herself that they have worked really hard to make sure that this is narrow. It does not go and pick up all manner of sundry things or create other avenues to block legitimate questioning of the decisions of a Forest Practices Officer.

Over the years we have seen some shockers of different things being done. They are much more robust and that is partly, you could argue, because of the actions of the Greens and

Bob Brown Foundation that they know now that they have to do it properly or else someone is going to come after them.

Many years ago, when my dad had a forestry practice plan for some plantation timber that was on our property, the contractor was saying, 'I have to go right out round here, need to take that fence down and that fence down so we can get over there'. And Dad, in his usual way of doing things, said, 'Oh no, just go through that creek there'. They said, 'Oh no, no, no, we can't do that'. Dad said, 'It's much quicker'. He would probably take the tractor across that way. But they said, 'No, no, no, we can't'. And Dad thought it was crazy that they could not go through the creek. It was so much quicker. It was a direct route. But they did not do that. They went round the long way and Dad dutifully pulled the fences down and made a pathway.

So, I know they take the job very seriously, and it is important that they do. I think the member for McIntyre said in her earlier contribution, 'once a tree is down, it is a bit late then'. The last thing we need is to have poor decisions being made because it just fuels the fire that is so harmful to the state, to the industry and to those who rely on it.

We need to be sure that things are clear so you do not leave avenues to create havoc when nothing has been done wrong. It comes back to the wording in a document that is designed to delegate an authority through a proper process. That leaves me in a situation where I will support the bill, but I am very concerned we are rushing through this without proper consideration. It does not matter whether you think you had time or not, there is a process to follow. It is there for a reason. I ask the Leader, are you going to do the third reading today as well, or are you going to put it up for tomorrow?

Mrs Hiscutt - I was hoping to do all the processes as I originally said.

Ms FORREST - Why do we need to do the third reading today? The lower House is still here tomorrow. That is an abuse of the power and goodwill that this House has given you to do it. Just to let you know how that might go.

Mrs Hiscutt - Thank you.

Ms FORREST - There is no need to rush it from a first reading to end of the game in a few hours. Talk about abuse of the power if that were to occur. That is simply not acceptable. And we can stay here until we finish it tonight. Anyway, I made my point clear on that.

In the clause notes attached to the original act, the Forest Practices Act when it was a bill, basically all it says in relation to the clause 39, was the commission might authorise a person to be a Forest Practices Officer. There is no further detail about the clause than that. It made it really difficult to fully understand what was intended back then, but I do appreciate from the comments I have made on it the importance of clarity around this. I am not 100 per cent sure that clarity is actually needed.

I do not know that there actually is a problem. But we know there is one case when it has been challenged and there may be others, but here we are and if it can be clarified without creating any unwanted or unintended consequences as a result of our actions here, that is a good thing. And I hope that is what we are doing. I think that is what we are doing, but it is difficult when we have such a short space of time to properly look at it. With those comments, I will support the bill, but I certainly will not be supporting the third reading this evening.

[5.02 p.m.]

Mr VALENTINE (Hobart) - Mr President, I thank the Leader for arranging the briefings even in the shortest form that this has been. I thank those who came and gave in no uncertain terms what this is all about and that is appreciated. We learnt quite a bit.

Through the briefings we heard there are roughly 484 forest practices plans that exist. We learnt about 5700 direct and indirect jobs during this particular second reading debate. That there are potential issues with delegations issued under the current act. Then we have the debate on suspension of Standing Orders right up front.

The main reason I wanted that suspension was because I wanted to do some more homework on exactly what cases were on foot, to be honest. I could go through a whole heap we are going through here with that sort of briefing, but the number one thing that really concerns me is when we deal with retrospective legislation like this, that is one thing. But my big issues is dealing with retrospective legislation when there is a case on foot. This House is here to review legislation and once we review it and we give it a tick, it becomes law. I think to myself, well, I hope so. Well, it is law, and it needs to be abided by. Just to change it because something might be a problem when there is a case on foot already or cases, I do not know that detail. It really causes an issue here for us as a Chamber. I do not want to be too strong on this but it points at the integrity of the Chamber, if we can just change an act in the middle of something that is on foot.

Mrs Hiscutt - I think changing an act is harsh words, we have had advice it is doubt removal.

Mr VALENTINE - What it is doing is changing it, it is an amendment to clarify a meaning. Now we do not even know whether that is a problem yet, and the fact it has been brought here while there is a case on foot is probably more a problem. I want to make that clear this is not about forestry.

This is about the process, something being signalled in a case where it is possible that this could be picked up and used against the Government or some other body. And here we are changing it so that does not happen or so it has less chance of being proven. To me, it is the whole integrity of the issue with us as a Chamber.

Retrospective legislation has been through this Chamber, and, yes, it is something we always closely look at, a lot of us do not like it, and it is not something that goes down well here in the past, certainly from my experience. If there is nothing particularly that would be impacted like cases being on foot, then maybe there is a reason to be looking carefully at this and saying well, yes in this case nothing is going to be impacted by it in this point in time, let us make the change.

If I could see a way of a change like this happening, clarification like this happening, that does not impact on cases on foot, from here in, but not cases before a judge, then I would possibly look at that. I do not know whether there is a capacity for that and it is something I would want to explore without suspending Standing orders, and dealing with it in a couple of weeks time. That is the sort of thing I would have been looking at.

This is not about forestry for me, and yes, I understand the importance of the forestry industry, absolutely, I grew up around five sawmillers. I know them, I know what the industry

does for the state. I know it has been contentious for many years, I can understand that. I can understand the importance of timber, we do not build houses without timber. If we do not produce the timber on this island, where is it coming from? All of those sorts of things, we all know that.

To me it is the principle and I find it difficult to bring myself to a point where as a Chamber we are expected to review things, we are expected to make sure that legislation is good and it does not have unforeseen consequences. That is all well and good, but if we are going to make a change simply seeking to avoid being picked up through the cases on foot, that is a different story for me. I will listen to other members on this. As I said, in the lead-in to the suspension of Standing Orders, it would take a lot to convince me that it is the right thing to do as a Chamber that is here to set the law.

[5.09 p.m.]

Mr GAFFNEY (Mersey) - I have enjoyed listening to the members and I appreciate the briefings this morning and we have all put on record so far that it has appeared to be a bit rushed. That puts me out of my comfort zone somewhat, but we recognise legislation is as good as it is, until something is challenged. That is not unreasonable, in practice that is what happens. This legislation from 1985 has stood the test of time until a recent case has created some concern and the Government, rightly, has said, this could be a problem, we are not sure, but if it is going to be a problem we had better make certain that we have our ducks in a row so it does not flow over to other decisions.

It is the same if you have a piece of legislation that is 190 pages long, it is only one clause until it is challenged. We find that a lot, especially in the local government land through planning - it creates a lot of issues. I go back to the member for Murchison when she said this is a possible issue which may be valid or may not be, but if there is a problem we need to address it to ensure the possible issue regarding the delegation of authority. I was really pleased we were given the two instruments, I am not going to table them, but they are just small minute words on a piece of paper. Somebody has then thought, 'Oh, hang on. They could be challenged' and that is what is happening, I think.

Ms Forrest - The power of the written word.

Mr GAFFNEY - It is a minute part of the whole process and suddenly what was deemed appropriate in 1985 may not be appropriate now in 2022. As we know in the legal system, people will take those things to task if there is a weak point. That is where those people who may be opposed to a certain thing may see that as a weakness and they may home in on there. I was a little bit surprised in the debate when it was a suspension of Standing Orders about whether we should take this through. I had no issue with the wording of the bill, actually I was comforted that it seemed fair and reasonable. I do not think the process needed to be rushed. I stand with the member for Murchison about the third reading, it is ridiculous to think it has to go through today. There is no reason for that, it is not going to impact anybody and the fact is that instead of having three days sitting we have had basically three hours.

On both sides of our forest industry debate, there are people who will flare up possible worse scenarios and using things that are outside what this is about. It is fair and reasonable that people will say if we do not do this now, this and this may happen. That does not stand the pub test. In this one we have a specific incident in the north-east that needs to be addressed, but I think the Government is thinking, we are not sure what the outcome of that decision is

going to be but we want to make certain the construction of that road over there or the clearing of that over there, which is fair and reasonable, can continue without fear of something.

When it was pointed out to us in the briefing there was this specific issue regarding the instrument delegation, then through that process there were perhaps a few others with that particular circumstance. A lot of these things from 1985 are done and dusted. There is no concern there unless it was, you can grow your trees for 45 years or something. We need to make certain we focus on the bill in front of us, what it is intended to do, what it should be doing and not let scaremongering get in the road. We need to think, okay, here is an issue, let us fix it, be comfortable with it and let us move on. OPC would have taken a lot of time with what they have done here, because they do not want to see happening in 20 years time somebody else coming in, which may or may not happen.

I am supportive of the bill. I am disappointed it has been rushed through and that is how it appears and with members not having a chance to fully do their job. That is not to say, member for Launceston, I am not suggesting for any moment we are not doing our job but it feels as though if we had a bit longer, we could have gone to a few other people to ask their advice. People within our network about how they see this panning out. What could be some of the pitfalls? What are some of the areas we need to be concerned about? What are some of the questions we should be asking on the Floor? To a certain extent I have nobody from my community contact me about this bill, so that is heartening.

Ms Forrest - No one would have seen it.

Mr GAFFNEY - Nobody would have seen it. However, I will suggest if there are people concerned about it we will be contacted tonight, so that should at least give us a chance before the third reading tomorrow to make sure we have got any other information we need. I would be very disappointed if the Government tries to rush this through tonight. I will support the bill, but with those reservations about the process.

[5.15 p.m.]

Ms WEBB (Nelson) - Mr President, I will stay here, because I will speak briefly on this. I will reiterate points made by others in that I am disappointed about the process and the rush. We had that conversation in relation to the motion to suspend Standing Orders. I certainly feel strongly in support that the third reading would not be appropriate for this evening, so that we can have overnight available to us.

In terms of the heart of the bill and what it is attempting to do, while I do share the member for Hobart's reservations about this being dealt with while there are other matters in the courts being addressed, my understanding of this bill is that it is adjusting in case there is a problem with something there - it has not yet been tested whether there is a problem, but in case there is, it is very much an administrative matter around wording. I would be really disturbed if we were going to be retrospectively changing something that would change the substantial and valid grounds upon which people could bring an appeal against a decision about a plan made under the delegated authority by one of these offices. For example, as members here will recognise, I am always very keen to see appropriate availability to citizens to appeal against decisions made or determinations made in our official processes. It is really important citizens can appeal against things, and it is important they can appeal against things on at least two very clear grounds. One ground would be the application of the law. Has the law relating to that matter been applied correctly? That should be a ground for appeal. Another would be,

has the administrative process been applied correctly? They are the issues that should be able to be grounds and a basis for appeal. What we are doing here does not really change the material availability of those things to people in relation to these plans. People will still be able to - if they wish - bring a matter on appeal around a plan they feel is warranted. The potential for this wording around the delegation instrument is not material to blocking the availability of appeal to citizens on the things they should be able to appeal on.

That is my contribution in a nutshell, and is why I do not feel inclined to not support this bill, other than my disquiet about we are doing it while there is one court matter that does have some connection to it. I believe that court matter has other elements to it, lined up perhaps with those other sorts of matters I talked about being relevant grounds for appeal. I am not familiar with it, so I cannot comment. Again, like some of my colleagues, I do not regard this to be about forestry per se and my vote on it would not be a comment on forestry. I think - as has been raised in our briefings and mentioned by some here today - this is essentially to clarify and confirm an original intent of the bill in the first place. I can see that is the case. While I would always be somewhat cynical about retrospective changes to legislation and doing that, and disinclined to do that as a matter of course or routine, in this case it does not give me a lot of disquiet to do that. At the moment, I appreciate the thoughts of other members, and while I very much object to the rush and the idea we might have to be forced to push through a third reading speech today, I am inclined to support the bill.

[5.19 p.m.]

Ms ARMITAGE (Launceston) - Mr President, like other members here, I am not keen on retrospective legislation but I do not see this bill in quite the same light as some that are retrospective.

We have been told this bill provides certainty to the forest industry and the bill is simply validating and confirming the original intent of the act. In essence, and the Leader will correct me if I get something wrong, it is a validation bill that is simple, and narrowly constructed. In other words, it is a 'removal of doubts' bill.

Under the Forest Practices Act this is a co-regulatory model which has been in place for about 35 years. The co-regulatory system allows for the Forest Practices Authority under section 43 of the current act to issue delegations. In other words, the co-regulatory system operates in terms of delegations of the Forest Practices Authority.

My understanding is that a potential issue was identified with delegation issued under the current act and the way the delegations could or may be viewed or interpreted. To my mind, this is apparently a technical delegation issue, and of course, once an issue is found around the delegation of powers it is prudent to remove doubt.

Interestingly, I have received an email from someone I know, and I guess this is how things can become misinterpreted, because I believe that this person has misinterpreted what we are actually doing. They have said:

Dear Rosemary, I have just read in the ABC News of the rushed introduction of legislation amending the Forestry Act with the intention of retrospectively legalising what has been, in one interpretation, illegal logging activity.

I implore you not to facilitate this change until the community is made aware of the situation and the implications for persons wrongfully convicted under the existing legislation and for future logging activity.

That is the concern that I have, that people think this is retrospectively approving illegal logging activity.

This is from an intelligent, well-educated person. I have written back, explaining the concern that rumours get out there and it looks like we are trying to pass something quickly to stop any changes.

We were told in briefings this morning that the system does not only relate to public forests, or native forests. It applies across the system and includes quarries, roads, et cetera, and it is, therefore, important to provide certainty in the system. It has come to light that individual forest practices and plans may be challenged because of the wording in the delegation.

In briefings, we were told the bill has drafted based on extensive advice from OPC, and I am sure it is very good advice from OPC, and that it is targeted and only striving to do the minimum required to remove the doubt.

We were also told that decisions have been made in good faith, and if there is a right to challenge the plan itself and decisions under the plan, those rights to challenge are retained. You cannot challenge the delegation power as written. That is appropriate.

The bill is about providing certainty. It is not attempting to stymie people who have a legitimate interest in wanting to take a case about a forest practices plan to court. The Leader is nodding, so I am assuming I am getting this right.

I do support the bill, because it is about validating the original intent of the act about delegation. Basically, it is a 'removal of doubts' bill, as we were told this morning, and I support it.

[5.23 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have one answer and one clarification here.

The member for Murchison asked about the qualifications and experience required for appointments as an FPO.

They are -

- (1) A tertiary qualification in forestry or suitable technical qualifications or demonstrated equivalent expertise.
- (2) Successful completion of the Forest Practices Officer Training Course.
- (3) At least five years of practical field forestry experience and supervision of forestry operations.

- (4) Engaged in working in the forestry sector in Tasmania with access to experienced FPOs who can act as mentors.
- (5) Can demonstrate to the satisfaction of the FPA that their work requires them to exercise the powers of an FPO under section 40 of the Act.

The member for Hobart commented on the currently active court case. I remind the Council that the Government announced its intention to introduce validating legislation on 6 April. That was before the Blue Derby Wild initiated proceedings on 8 April.

The action the Government is seeking to take, and that parliament is being asked to take, will in no way interfere with the separation of powers doctrine. This bill is about providing certainty. It would be inappropriate to say anything more on that.

Mr Valentine - Thank you for that; but there is still a principle there.

Mrs HISCUTT - The Blue Derby matter is yet to proceed to trial. The timing for a decision is not known and any decision by the Supreme Court could be appealed. The Government has been proactive in dealing with the matter and has chosen to act with an abundance of caution. The bill is considered urgent because it will provide certainty to our renewable and sustainable forest industry.

The matter which the bill is seeking to deal with relates to the system at the holistic level. Approximately 500 forest practices plans have been certified in the recent financial year for various forest practices, including harvesting, reforestation, plantation, roading and quarries.

It is unreasonable for the Government to continue to allow there to be significant uncertainty placed over the industry - public and private, native and plantation - while a specific court matter is resolved. I think that ticked off on most of members' issues.

I appreciate your contributions and thoughts on this.

Mr PRESIDENT - The question is that the bill be read the second time.

The Council divided -

AYES 11

Ms Armitage
Mr Duigan
Ms Forrest (Teller)
Mr Gaffney
Mrs Hiscutt
Ms Howlett
Ms Lovell
Ms Palmer
Ms Rattray
Ms Webb
Mr Willie

NOES 1

Mr Valentine (Teller)

Bill read the second time.

FOREST PRACTICES AMENDMENT (VALIDATION) BILL 2022 (No. 13)

In Committee

Clauses 1, 2 and 3 agreed to.

Clause 4 agreed to.

Clause 5 -

Section 43A inserted.

Ms RATTRAY - Madam Chair, I seek some clarification in regard to the directions by Chief Forest Practices Officers. The clause states:

- (1) The chief forest practices officer -
 - (a) may give a direction to a forest practices officer in relation to the exercise or performance of a function or power of the forest practices officer under this Act.

I want to make it really clear, that this means that there is no intention that the forest practices officer would actually be directing and at the end of the day it is the forest practices officer who takes responsibility for their decision. If that can be confirmed, that will certainly make clear the intent of what we are asking here.

Mrs HISCUTT - Madam Chair, what the member for McIntyre has just expressed is the clear intent, yes.

Ms RATTRAY - Thank you, Madam Chair. Clause 43A(2) places some parameters around the type of direction that can be issued under section 43A. The clause says that there:

may be a direction as to a policy, or matters, to be considered by the forest practices officer, or the person, before performing or exercising the function or power, but must not require the forest practices officer or the person to make a particular decision in performing or exercising the function or power.

Could I please have a couple of examples of the directions that may relate to policy or other matters. 'Policy' is clear - it might be around the masked owl, for example - but what about the other 'matters'. That would be helpful in 20 years time when I am not here.

Mrs HISCUTT - Madam Chair, some examples the CFPO has provided include guidelines for considerations of exemptions under regulation 4 of the Forest Practices Regulations 2017. These were endorsed by the board of the FPA after consultation with the Forest Practices Advisory Council. The guidelines are designed to guide FPOs and others in interpreting complex legal definitions. Other administrative instructions relate to ensuring FPOs are aware of legal requirements under the Surveyors Act 2002, in relation to making of private property boundaries, and how these may be complied with. Is that what you are looking for?

Ms RATTRAY - You mentioned that these were derived under some consultation with the advisory council. Can we have an indication of who is part of that advisory council? It would be useful to see who makes up that council. I do not need their name and address, just where they represent.

Mrs HISCUTT - It is on the website, and if you can indulge me for a moment, we will hopefully have that information for you. Are you OK with that, Madam Chair?

Madam CHAIR - If it is publicly available.

Mrs HISCUTT - Yes, it is. We are loading up the website. In the current act, section 37A talks about the Forestry Practices Advisory Council and all the rules around that. So, all the members, you said you do not want the names. There are quite a few of them.

Ms Rattray - Just the various areas they represent would be useful.

Mrs HISCUTT - That is in section 37A of the current act, which is quite lengthy and I do not think I need to table it because all members have access to that. Are you okay with that? I can read them out. There are quite a few.

Ms Rattray - It is fine, there is a reference now in *Hansard*. I am comfortable with that. Thank you, Madam Chair.

Mrs HISCUTT - It is on the State Growth Tasmania website so just google it. They are all there.

Clause 5 agreed to.

Clause 6 agreed to.

Clause 7 agreed to.

Clause 8 agreed to.

Title agreed to and the bill taken through the remainder of the Committee stage.

Bill reported without amendment.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, despite the fact that we moved to suspend Standing Orders to go through all the processes and reading of this bill, I move -

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

Motion agreed to.

ADJOURNMENT

[5.38 p.m.]

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

That the Council at its rising does adjourn until Thursday at 11 a.m.

Motion agreed to.

Mrs HISCUTT - (Montgomery - Leader of the Government in the Legislative Council) - I remind members of our lengthy climate change briefings tomorrow morning starting at 9.30 a.m. in committee room 2. Mr President, I move -

That the Council does now adjourn.

Slowness of Ministers' Responses to Questions

Ms RATTRAY (McIntyre) - Mr President, when we were here the most recent time, before the proroguing of parliament, I stood on the adjournment and complained about not getting answers to questions from ministers. I am here complaining again and I am going to continue to complain until I get the appropriate answers in a timely manner.

The minister for Infrastructure - I know we have had a proroguing of parliament but I was informed on 5 April that, 'We have received advice from the department and a written response is in train'. How long does a written response in train take? I do not want to keep doing this. It is not helpful, it is not good for my blood pressure and it is certainly not helpful to the constituents that I am representing in these matters.

So, to the minister for Infrastructure, if you would like to organise his office and provide a response to a question that was raised in February, Mr President, on 9 February. Not good enough. I will continue to rant on about this.

Mrs Hiscutt - While the member is on her feet, I will do my utmost to pursue that for you.

The Council adjourned at 5.39 p.m.

Appendix 1

Tabled and Incorporated
into Hansard
by J. Palmer
Deputy Leader

4/5/2022

Michael
Deputy Clerk

Tuesday 3 May 2022

Hon Guy Barnett MP
Minister for Resources
Parliament House
Hobart TAS 7000



Tasmanian
Forest
Products
Association

Jan Palmer
4/5/22.

Dear Minister,

On behalf to the Tasmanian Forest Products Association, we write to provide our support to the pending Bill to amend the *Forest Practices Act 1985*.

The importance of this validating legislation cannot be underestimated, as it will remove doubt and provide certainty to the Tasmanian forestry industry.

We understand that the Bill seeks to resolve an administrative matter relating to power of delegation. We also understand that this doesn't have anything to do with the legitimacy, including safety or environmental soundness, of our on-ground forestry operations.

For the continuing confidence of our industry, which includes native forests and plantations and across public and private land, we expect this Bill gets support in both houses of Parliament to resolve this matter swiftly.

Yours sincerely,

Nick Steel
Chief Executive Officer

Tasmanian Forest Products Association
4/30 Patrick Street, Hobart, 7000
enquiries@tfpa.com.au

