



**PARLIAMENT OF TASMANIA**

**HOUSE OF ASSEMBLY**

**REPORT OF DEBATES**

**Wednesday 9 November 2022**

**REVISED EDITION**



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**Wednesday 9 November 2022**

The Speaker, **Mr Shelton**, took the Chair at 10 a.m., acknowledged the Traditional People, and read Prayers.

## **QUESTIONS**

### **State Service Wage Negotiations**

#### **Ms WHITE question to PREMIER, Mr ROCKLIFF**

[10.02 a.m.]

After months of your failure to commit to action to address critical issues in our public services, today we will see thousands of Tasmanian school staff, child safety workers, healthcare staff and other public sector workers walk off the job. Schools will be closed from lunchtime and school communities around the state will face significant disruption. Not because of the teachers -

**Mr Rockliff** - It is the unions.

**Ms WHITE** - but because of your failure to treat school staff with respect. What did you say? The unions? Who do you think make up the unions? It is the workers, the teachers, and the school staff.

Your Education minister has done it again. Your Education minister has been deliberately making it worse by misleadingly saying that exams would be impacted and deliberately leaving a decision about schools needing to close until the last minute. You had two weeks' notice. Today he has claimed that teachers' cries for more support were nothing but posturing for the sake of it. Shameful.

When will you finally show the leadership needed to address the crisis in our public services, pull your minister into line and reach a fair pay deal with Tasmania's essential workers?

#### **ANSWER**

Mr Speaker, I thank the member for her question. What we are demonstrating as a government is leadership. We are sitting down with our unions and industrial advocates, recognising the value of the public service, particularly the work being done for our community across the whole of government over the last few years as a result of the disruption from the pandemic.

Outside of that, we want to strike a fair, reasonable and affordable pay rise for our highly valued public servants, whether they be nurses in our hospitals, teachers in our schools, police on the beat or our child safety service providers. We are about sitting down and demonstrating leadership in that sense, wanting to negotiate in good faith.

Today will be a disruption for the Tasmanian community. With respect to when you were in government, where your budget challenges led to the sacking of some 1500 staff -

**Ms White** - Is this you showing leadership, talking about 10 years ago?

**Mr ROCKLIFF** - Your budget management resulted in sacking a nurse a day for nine months from our health system. I am not sure how much you think the staff across the health system felt valued by those actions. Your actions to save money were to try to close 20 schools across rural and regional Tasmania - an attack on rural and regional Tasmania. We are all about sitting down and negotiating in good faith.

It is worth highlighting our investment in our public service across the whole of government, including since 2014. We have recruited 1500 full-time equivalent health staff since July 2020; increased teacher numbers by 435 full-time equivalents in our public school system since 2014; increased professional support staff and school health nurses by 100 positions in our schools since 2014; since coming to office the Tasmanian Liberal Government has been recruiting an extra 329 police officers, which will bring Tasmania to a record number of 1449 by July 2026.

A subject of great importance yesterday, raised in question time, was child safety staffing. Since 2014, the Tasmanian Government has increased child safety staffing by some 40 per cent. As part of our Budget, we are committed to a further \$5.5 million for an additional 10 FTEs to be added to the child safety workforce around the state.

We have employed more than 237 full-time equivalent correctional officers in our prison since 2016.

The most recent State Service annual report shows that in 2022 there were 27 723 full-time equivalents in our public service compared to 22 480 when you were last in office. We value our public service by fair and affordable pay rises and increasing the public service capacity to deliver very valuable services to our community.

I am disappointed in the industrial action. There was a fair offer on the table last week. The unions decided to continue with their disruption of Tasmanians. That it is disappointing. We are willing to sit down and negotiate in good faith on a fair and affordable pay rise.

The member mentioned the inflationary impact on all Tasmanians yesterday and I acknowledge that. The member needs to be upfront and honest about whether or not the member and the Labor Party supports a pay rise of some 8.6 per cent. Is that your position? If that is your position, across the forward Estimates it will cost our budget some \$2.4 billion. Not only will it wreck our budget but the impact will exacerbate the problems you come in here to talk about.

We will always demonstrate leadership by working, sitting down with our unions and industrial advocates, highlighting how much we value our public service. This is demonstrated by the fact that we have continually invested across our public service over the course of the last eight years.

**Mr SPEAKER** - If you could wind up please, Premier.

**Mr ROCKLIFF** - We have to have a fair and affordable pay rise so that we do not wreck the budget and find ourselves in a position that you found yourself in between 2010 and 2014, where you sacked public servants and wrecked frontline services. On this side of the House,

we do things differently. We are responsible budget managers, we value our public service and we will always sit down and negotiate in good faith.

### **State Service Wage Negotiations**

#### **Ms WHITE question to PREMIER, Mr ROCKLIFF**

[10.09 a.m.]

Two weeks ago, you declared you were making your final offer to Tasmania's overworked, under-resourced and underpaid public sector workers. Clearly, your final offer is not going to cut it, with workers taking widespread industrial action today because of your failure to go anywhere near addressing the resourcing and workload issues they have been raising in their claims for months now.

How can you continue to claim that you are negotiating in good faith, as you did yesterday and as you have just done again now, if you have already given your final offer, as your Education minister said yesterday and as you said two weeks ago?

Which is it, Premier? Is it good faith or final offer?

#### **ANSWER**

Mr Speaker, I thank the member for her question. I will point to my previous answer. Good-faith negotiations, sitting down sensibly in a measured way with our unions representing our highly valued public service demonstrating - you mentioned resources in your question - the fact that across education, health, child safety, and police, we have increased numbers across the public service. That is a demonstration of not only how much we value our public service, but our willingness also to recognise the importance of service delivery to our Tasmanian community.

You also need to state your position. We have stated our position. Do you agree with an 8.6 per cent pay rise?

**Ms White** - We would not have got to this position that you are in.

**Mr SPEAKER** - Leader of the Opposition, order.

**Mr ROCKLIFF** - Do you agree with that? I challenge you to say exactly what your position is because the Tasmanian community would like to know.

**Members** interjecting.

**Mr SPEAKER** - Order.

**Mr ROCKLIFF** - They would like to know, Mr Speaker. Remember, you are the alternative government. We have the privilege of being in government now.

**Mr Winter** - Remember you are the Government. You are actually the Premier, as sad as that is.

**Mr SPEAKER** - Order, member for Franklin.

**Mr ROCKLIFF** - Recognising that, Mr Winter, we are in government, correct, and therefore we are making the decisions.

**Members** interjecting.

**Mr SPEAKER** - Order. This is not a two-way conversation. It is a serious question that has been put to the Premier. The Premier will be allowed to answer it without further interjection.

**Mr ROCKLIFF** - Thank you, Mr Speaker. I was highlighting the fact that when negotiating a fair and affordable pay rise, we have to ensure that we can also sustain that pay rise so we are not forced, like you were forced to in government - although my view is you could have made far better decisions than trying to close schools and sack a nurse a day for nine months, but they are the decisions you made. We have to have fair and affordable pay rises so we can sustain the budget.

I believe it is a fair question that I put to you: do you support an 8.6 per cent pay rise, which will cost the budget some \$2.4 billion and add to the inflationary impact that that would have? I put that question to you. In the meantime, we will continue negotiating with our unions in a fair way.

#### **Senator Alex Antic - Comments**

#### **Ms O'CONNOR question to PREMIER, Mr ROCKLIFF**

[10.13 a.m.]

Yesterday while we were apologising for institutional child sexual abuse, your federal Liberal Party colleague, the odious Senator Alex Antic, accused the ABC of 'grooming' over the reading of a book that tells young women it is okay to wear pants. This is the latest in a long line of vile hate speech from Liberal representatives, including Tasmanian Senator Claire Chandler, towards transgender people. Senator Antic, a vocal advocate for the Australian Christian Lobby, is sending out the message that he does not think young girls should be wearing pants. Apparently, he wants them to wear skirts or dresses. This is arguably grooming.

Do you acknowledge this ideology as harmful to members of the LGBTI community, as well as being harmful to efforts to combat child sexual abuse? Will you be a voice of reason and publicly condemn those elements of your party that push this harmful ideological agenda?

#### **ANSWER**

Mr Speaker, I thank the member for her question. I must say that I was not aware of the comments which you point to for myself around that. My view is our young people can wear whatever they like, frankly.

**Ms O'Connor** - Well, condemn your colleague.



**Mr ROCKLIFF** - They can express themselves however they like. At face value - and I have not seen the comments or the context - I would say that the views of myself and indeed the person you mentioned, do not align in any way, shape or form.

### **State Service Wage Negotiations**

#### **Mr TUCKER question to PREMIER, Mr ROCKLIFF**

[10.14 a.m.]

Can you update the House on the facts in relation to wage negotiations and provide details of the Government's fair, competitive and affordable wage offer for public sector workers? Are you aware of any alternatives?

#### **ANSWER**

Mr Speaker, I thank the member for his question. As to the second part of the question, I think I have answered it already in terms of alternatives, and it is not up for me to highlight the alternatives of the Opposition, it is up to the Opposition to highlight the alternatives, and no doubt that is a question the Leader of the Opposition will be asked today by the media.

As I have said many times, our Government is committed to negotiating with all unions in good faith to deliver wage increases for our highly valued workforce. Good-faith negotiations mean listening and responding and our Government has done that at all levels. I have personally met with our public sector unions, as I have said. The head of the State Service has met her on a number of occasions to work collaboratively with unions to work on negotiations. Lead negotiators are working hard behind the scenes with individual unions on the conditions unique to each agreement.

Since September we have made three separate wage offers to public sector unions. On 26 October the head of the State Service wrote to unions indicating they would receive a further offer by the end of the week. That final offer was delivered on 28 October in good faith. However, even knowing the offer was coming, even before receiving that offer or taking it to their members, unions decided to take strike action, which is happening today, and in my view they are disrupting services, disrupting education and disrupting the lives of Tasmanians.

There must be a better way for the unions to sit down and negotiate in good faith with government. The fact is, the third and final offer was made by Government on 28 October and it provides for fair and affordable wage increases for our hardworking State Service employees. It provides for a three-year agreement with increases to wages of 3.5 per cent in the first year, and 3 per cent over the next two years.

It is worth highlighting that this is more competitive than most other states, with New South Wales offering 3 per cent per annum over three years; Western Australia offering 3 per cent, or \$600, whichever is the greater over two years; and Victoria offering a rate capped at 1.5 per cent per annum for the life of the relevant agreement. It is more competitive than what the Prime Minister was offering to his own Commonwealth public sector workforce of 3 per cent for a one-year agreement. It is a full 1 per cent over the budget allocation of 2.5 per cent, noting that for each 1 per cent over the 2.5 per cent equates, as I have said many times in this House, to some \$397 million over the Budget and forward Estimates.

The fact is, no government around the country is offering wage increases at the current rate of inflation. It is simply unaffordable. I will not break the Budget and break services for the Tasmanian people. I will not do it. That is why we have to sit down and negotiate in good faith and what is fair and reasonable. What I will not be doing is breaking the Budget and breaking services for the Tasmanian community, which was your solution between 2010 and 2014, frankly, and I remember the consequences of that.

If you are advocating for wages at Hobart CPI of 8.6 per cent, which is 6.1 per cent over the current budget allocation, that would conservatively cost the Budget some \$2.4 billion, I am advised, over the Budget and forward Estimates. That would fuel inflation, exacerbating the problem not only for our public service but for every other employee across Tasmania, and that is irresponsible and indeed would break the Budget.

I have mentioned what we have achieved in terms of boosting our frontline services across health, education, police, in child safety services and in our correctional facilities since 2014. More FTEs, some 6500 more FTEs, if I my maths is correct, since those opposite were last in government. That is important to realise. We are also offering a one-off payment of \$1000 for those up to and equivalent to band 3, currently \$72 000, with a \$500 flat-rate increase to the base salary of those employees and another \$500 one-off payment in years two and three. In my view, this is fair and reasonable and affordable, and I will tell you why. This means those on incomes of band three equivalent and below will get between 6.9 per cent and 8.83 per cent in the first year. We have also offered a range of new and extended leave entitlements.

We have negotiated in good faith. We have listened and responded to how we can improve our offer three times now. I think that the Tasmanian people would expect governments and unions to work together for the greater good of the Tasmanian community. I do not believe the Tasmanian community would see the disruption to their services as being in the greater good for the Tasmanian people.

## **Animal Cruelty**

### **Ms JOHNSTON question to MINISTER for RACING, Ms OGILVIE**

[10.21 a.m.]

Yesterday, following reports in the media, the community was rightly outraged by a social media video of two people giving an orphaned joey a cigarette. Aside from the fact that it appears that neither the man nor the woman in the video are adequately trained to look after orphaned wildlife, I hope we can all agree that giving a joey a cigarette is an act of animal cruelty, and that boasting about it on social media shows a lack of insight or care about the welfare of animals.

I understand the Department of Natural Resources and Environment is conducting an investigation into the video of the two individuals and the treatment of wildlife in their care. However, it is also reported that the woman in the social media video is involved in the greyhound racing industry. As this woman apparently cares so little for our native wildlife, one can only imagine how she cares for greyhounds.

As you claim to take the welfare of animals and the racing industry seriously, will you act and ask the Office of Racing Integrity to conduct its own investigation? If, as you say, there is no place for animal cruelty in the racing industry, then surely this cruel industry participant is bringing the race industry into disrepute and ought to be banned from participating.

## **ANSWER**

Mr Speaker, I will start with some facts, which I think is a good place to commence.

**Ms O'Connor** - Which you will read out from your prepared brief again.

**Mr SPEAKER** - Order.

**Ms OGILVIE** - Sorry, I cannot hear myself speak. We have had two significant reviews into animal welfare this year, being the review of the Racing Regulation Act and also the Animal Welfare Act Amendment Bill. I will point out to the House that Ms Johnston failed to provide a submission to either of them. I have continually asked Ms Johnston, if she has animal welfare concerns, to contact me immediately with those concerns, because I do care about animal welfare.

I am an animal lover. There has been radio silence from Ms Johnston when these issues have come up. I have written to her on a number of occasions - three letters, in fact - and I have received no replies. I have offered meetings with Tasracing and the Director of Racing to the Independent member for Clark, but again, silence.

During her contribution to the Animal Welfare Act Amendment Bill, Ms Johnston made allegations that the greyhound she had adopted was abused by the racing industry. What has Ms Johnston done with those allegations? Has she reported them? Again, silence. I have been briefed that the Director of Racing has written to you also, Ms Johnston, in relation to your contribution in parliament. Have you responded? Silence.

Finally, a question for Ms Johnston to ponder. While she was the mayor of Glenorchy - which happens to have the state's largest racing facility in its municipality - she appeared to have no issues with the racing industry, attending from time to time.

I am aware of the short video, as are we all, because we all read the *Mercury*. I have looked at the video. It is very grainy and very difficult to tell what has gone on there. I understand that the people in that video are under age. I must draw the line at bringing children into this parliament when there are investigations under way. I will leave it at that.

I encourage Ms Johnston, the minute she has a concern to not wait for parliament. You do not have to wait for this forum. Come straight in, tell me, ring me. Others do, and you can too. If you really care, pick up the phone.

## **State Service Wage Negotiations - Teachers**

### **Ms WHITE question to PREMIER, Mr ROCKLIFF**

[10.25 a.m.]

Tasmania's teachers are the lowest paid in the country, earning nearly \$5000 per year less than teachers in Victoria - and that is before you take the generous incentive programs of other states into account. Tasmanian teachers also work with less support at a time when challenging student behaviours are on the rise. There is just one school psychologist for every 900 students in Tasmania and one social worker for every 800 students - nearly double the recommended ratio. It was revealed at Budget Estimates that one-third of all speech pathologist positions are vacant, and students are waiting, on average, 108 days for an appointment. Stress leave claims are up 54 per cent in the last three years, schools across the state are struggling to find relief teachers, and a record 271 teachers left the profession last year - and schools are closed today because educators are fed up with being ignored and insulted by your education minister.

If you have handed educators your final offer, as you say, how are you going to prevent more resignations, more strikes, and more students from missing out on school? That is what our state cannot afford.

### **ANSWER**

Mr Speaker, there has been no greater supporter of education than this Government. Since 2014, we have invested considerably, with 435 more full-time equivalent teachers. The number of professional support staff employed by the department as of March this year is 252 - almost 253 - full-time equivalents, including 52 full-time equivalent school nurses, and 12 - almost 13 - FTE specialist staff to support our vulnerable children through the Safe Homes, Safe Families and Strong Families, Safe Kids government initiatives.

The bilateral agreement signed in November 2017, if memory serves me correctly, had growth funding in education over the next 10 years, which actually corrected an injustice where the agreement that you signed up to gave a higher rate of funding for private schools than public schools. A Labor-Greens government federally, and a Labor-Greens government down here.

We have corrected that by investing more growth funding into our public school system, which is exactly where it should be, frankly, with more resources in terms of teachers and more support staff.

As an education minister for seven years and, indeed, as Premier right now, I recognise the challenges within our school environment as a result of the disruption of COVID-19, the challenges with getting attendance back to where it was pre-pandemic, and the challenge with our youth mental health circumstances. That is why we are listening to young people - years 4 to 12, and having a yearly wellbeing survey where they can express their concerns and their views, so we can apply resources where they are most needed in our schools.

Part of the bilateral agreement we signed and that growth funding was also directing and focusing those increases in resources to real areas of need, such as trauma-informed practice, and supporting our students with disability. These are important decisions we are making as a Government, supporting our student wellbeing and supporting our staff as well.

As I said, we will always sit down and negotiate in good faith. I am disappointed by the stop-work action and that public schools are closing at 12.15 p.m. today, Wednesday 9 November. Year 11 and 12 exam centres across our eight colleges, King Island District High School and Scottsdale High School will remain open so exams can proceed as scheduled.

**Ms White** - And they were always going to.

**Mr ROCKLIFF** - Yes, you say that, but there are families with children in both primary school and high school, so they are disrupted, which disrupts the family.

**Opposition members** interjecting.

**Mr SPEAKER** - Order.

**Mr ROCKLIFF** - Do not go around saying that families have not been disrupted. Some of our students in years 11 and 12 have siblings in other grades, which disrupts the family and disrupts them, so I do not accept that argument at all. I see this action as irresponsible when you have a government that is willing to sit down and negotiate in good faith with our highly valued teachers, and a government that has demonstrated where we have applied the resource to support our teachers in schools.

Do we need to look at more resources? Mr Jaensch is applying more resources when it comes to circumstances we were discussing today. We will always sit down and look at the resources that are needed - sit down and negotiate in good faith. Today's disruption by the union is unnecessary when you have a government that is willing to sit down and negotiate a fair and affordable pay rise in good faith.

### **Community Housing Growth Program**

**Mr YOUNG question to MINISTER for STATE DEVELOPMENT, CONSTRUCTION and HOUSING, Mr BARNETT**

[10.31 a.m.]

Can you update the House on plans to partner with community housing providers to deliver social housing homes for vulnerable Tasmanians on our housing register?

**ANSWER**

Mr Speaker, I thank the member for his question and his strong support for vulnerable Tasmanians, for those in need. This Government is committed to making inroads into the current housing challenges we have in the state, being experienced by vulnerable Tasmanians across the state. All Tasmanians deserve a roof over their head. There are still too many in the community struggling to find safe, secure and affordable housing. We need to do better. We are trying. We have a plan.

We need to build more homes faster. That is why we have a plan for the largest investment in Tasmanian history of \$1.5 billion to build 10 000 homes by 2032. That is a very ambitious plan. It is in the Budget with \$204 million for this year alone, \$53 million over the forward Estimates and \$1.5 billion going forward.

We are very committed and we have a range of programs underway, including the Community Housing Growth Program. It is already building over 1000 new homes, with over 700 to be delivered by June 2023, with the balance by 2024.

I am pleased to announce today that this Saturday, 12 November, we will be opening an expression of interest for our Community Housing Growth Program to build an additional 200 new social housing dwellings. An estimated \$45 million commitment by this Government will help build new homes faster. It is going to help 200 Tasmanian families and it will address some of those on the housing register. The community housing providers, not-for-profit organisations, local government organisations - all have the ability to express interest to be involved. We are partnering with those entities to make a difference. This program will provide up to \$180 000 per home to build those homes faster, those dwellings that are so important.

I thank the community housing providers. It is great working with them. They are committed. It is not just good will but runs on the board. We are working with the building and construction sector. Thank you to them for partnering with government.

These capital grants will be provided through the program. There will be many shovel-ready projects, already planned on land owned by the proponents or to be developed on third-party properties. This will be very important. Likewise, available on Crown land.

We have an innovative approach. We need to be creative and we need to do things better to make a difference. We are trying to do that and we are delivering this through a very ambitious program. We are backing this ambitious program with funding, unlike state Labor who wax lyrical on the other side time and again but have zero solutions. They are just negative and criticising. Knock, knock, knock. Why not come up with an innovative, positive solution? I call on state Labor to come forward with a positive solution, rather than just criticise.

The key objective of the new Homes Tasmania board and the new Homes Tasmania, in just a few weeks' time, will be to build more homes faster. State Labor opposed it. You opposed that as well. Oppose, oppose, oppose. Get on board, come forward with positive suggestions like the community housing providers, like the building construction sector, like others in the community with the good will to make a difference for vulnerable Tasmanians. We will deliver.

### **kunanyi Cable Car-Enabling Legislation**

#### **Ms O'CONNOR question to PREMIER Mr ROCKLIFF**

[10.36 a.m.]

Last week the planning tribunal upheld the decision of the Hobart City Council and strongly rejected, on 18 of 26 grounds, the planning permit for the proposed cable car on kunanyi-Mt Wellington. This is a win for the community that has fought so hard to defend the mountain, and a clear signal to the proponent, its shareholders, and supporters that their planned cableway and privatisation of the pinnacle is just not going to fly.

In 2017, your Government introduced specific enabling legislation to help the proponent and allow for the compulsory acquisition of kunanyi's summit. Premier, will you now rule out

doing so again, or in any way using the resources of your Government to breathe life into this divisive, unpopular project?

**ANSWER**

Mr Speaker, I thank the member for her question. Our Government has always been a very strong supporter of a cable car on kunanyi-Mt Wellington as it will not only provide a more sustainable and accessible visitation strategy -

**Ms O'Connor** - What a load of garbage.

**Mr ROCKLIFF** - The problem is still there, is it not? It also has the potential to bring significant investment to our state, create new jobs, both during construction and once operational, and provide a sustainable transport solution.

**Ms O'Connor** - How is it sustainable?

**Mr ROCKLIFF** - Following the recent decision by TASCAT -

**Dr Woodruff** - It has been rejected by TASCAT.

**Mr SPEAKER** - Order. Everyone in this place has different views about different issues. You are allowed to express them in this place but not interject on another member when they have a different view. If that continues, I will be forced to ask you to leave.

**Ms O'Connor** - Thank you for your guidance, Mr Speaker, but I note that Labor has been heckling all through their questions and were not pulled up.

**Mr Rockliff** - They are very quiet now, though.

**Ms O'Connor** - Because they support us.

**Mr ROCKLIFF** - Following the recent decision by TASCAT, I understand the proponent has expressed disappointment with the decision and is taking time to consider its position. Next steps are a matter for the proponent.

However, I want to be very clear that our Government is about delivering a plan that secures Tasmania's future in terms of every sustainable opportunity possible. One that supports sustainable access to our parks for Tasmanians and visitors, and investment, jobs and economic prosperity is very important.

**Ms O'CONNOR** - Point of order, Mr Speaker. Could the Premier address the question, which is can he rule out introducing further enabling legislation for the project?

**Mr SPEAKER** - As has been stated in this place many times, I cannot inform the Premier on how he should be answering a question. If we sit back and listen, I am sure the Premier will get to the relevance of the question.

**Mr ROCKLIFF** - Thank you, Mr Speaker. As I say, the next steps are a matter for the proponent. If the cable car does not go ahead, we will always consider the necessity of other

sustainable options for the mountain, in collaboration with the council. I am not going to rule in or out -

**Dr Woodruff** - Define what you mean.

**Mr ROCKLIFF** - My view is that it is a sustainable solution. I understand that it is controversial. I reckon many Tasmanians support the cable car.

**Dr Woodruff** - No, where's the basis for that? The tribunal doesn't support it. The Aboriginal community doesn't support it.

**Mr SPEAKER** - Order.

**Mr ROCKLIFF** - I think a lot of people in southern Tasmania, in Hobart, support the cable car. The challenge of sustainable transport solutions is still there and present, so you can celebrate if you wish but the challenges still remain in terms of a sustainable solution in terms of transport on Mount Wellington.

I know the member has a bill to debate today. I cannot anticipate the order of the day but we will not be supporting you because we believe that we need to consider options, given the challenges are still present, despite the decision made last week.

## **NAPLAN Results**

### **Ms WHITE question to PREMIER, Mr ROCKLIFF**

[10.41 a.m.]

Before both the 2014 and 2018 election you promised Tasmanians you would lift Tasmania's educational outcomes above the national average in every NAPLAN measurement by 2020. You also promised that:

A majority Liberal government will have at its heart a fundamental commitment to raising educational standards in Tasmania and working with and supporting our education professionals to do so.

It is now 2022 and not only does Tasmania have the worst NAPLAN results of any state, but teachers are on strike precisely because you have broken your promise to work with them and support them. How are you ever going to fulfil your commitments on student outcomes while you fail to address the serious problems educators have been raising with you for years?

### **ANSWER**

Mr Speaker, I thank the member for her question. There will not be any improvement today because schools will be shut, so the disruption today will not help at all when it comes to learning for Tasmanian students.

Frankly, I take your question as a slight on our hardworking teachers across our schools. I have demonstrated very clearly how we are resourcing our schools, focusing on a fairer



funding model, the Gonski 2.0 agreement, which applied fairer funding across our public schools. We took away the Labor favouritism of private school increases in funding and -

**Ms O'Connor** interjecting.

**Mr SPEAKER** - Order.

**Mr ROCKLIFF** - We prioritised through Gonski 2.0 fairer funding for our public schools, as we should, because the Labor-Greens government federally and the state Labor-Greens government between 2010 and 2014 favoured private schools over public schools.

**Ms White** - 'Leading the nation in education' - that's what this fellow said. Remember him? Gee, you've got a bit more hair in that one.

**Mr SPEAKER** - Leader of the Opposition, order.

**Mr ROCKLIFF** - I do not recognise any of those people; that was a long time ago.

There is a serious side to your question. I am well aware of commitments made and well aware of the NAPLAN results. I am not sure you are correct on your question around being the worst in the country. It is simply not true. We have seen an improvement across a range of areas which the minister for Education will be well able to articulate, but I remind those opposite that the Labor Party had a position of no NAPLAN. If my memory serves me correctly, Julia Gillard as Education minister federally, brought in the NAPLAN benchmarking - if I can put it that way - and every state and territory participated in that. From my memory, Tasmania was the first to be 100 per cent online.

**Ms White** - What about the commitments you made, which was to use NAPLAN as the measure?

**Mr SPEAKER** - Order.

**Mr ROCKLIFF** - What I am saying is we believe in a form of measurement where we can understand where we need to apply resource. NAPLAN is only one day a year so it should not be reflective of overall student performance. Nonetheless, it is a measurement. I hear the irony in those opposite asking a question about NAPLAN given they wanted to abolish it a few years ago. I am not sure if that is still their position or not.

**Ms White** - It's about your commitments that you made.

**Mr SPEAKER** - Order, Leader of the Opposition.

**Mr ROCKLIFF** - NAPLAN, together with other evidence, assists in understanding performance of two of the Department of Education's children and young people's key goals - literacy and numeracy. As I have said, it is important to remember NAPLAN is appointing time tests. The data from NAPLAN is used alongside other data sets to understand where students are in their learning and to identify areas for system, school and classroom focus.

There are some positives in the data from 2022, such as long-term gains for Tasmania in year 3 reading and year 5 reading and spelling. Tasmania's results in reading at all year levels indicate that this is one of our strongest domains.

National data is dominated by the context of the major cities and with parental education as a dominant influence, education outcomes comparing Tasmania to Melbourne and Sydney is not appropriate or relevant. To illustrate the influence of context, Tasmania's mean NAPLAN achievements for 2022 were statistically different from Queensland in only one of 20 categories, with that figure increasing to just two areas in comparison with South Australia.

**Mr SPEAKER** - Wind up, please, Premier.

**Mr ROCKLIFF** - Yes. This illustrates the need for careful and considered analysis by data experts to draw meaningful analysis from NAPLAN outcomes, but even then a student is only tested every two years through NAPLAN, which means that NAPLAN has limited capacity to inform learning at the student and classroom level, despite the benefits of understanding Tasmania in that sense from the other comparative data across the state.

I will highlight the progressive assessment test as I conclude my answer, Mr Speaker. From 2022, all Tasmanian government schools are administering progressive assessment testing, or PAT, across all year levels from prep to year 10. We know that we need to identify those learners who are not meeting the expected standards as early as possible and provide additional support. PAT will provide teachers with immediate data on how each student is tracking, allowing them to differentiate their teaching practice to meet the individual needs of each learner. This will also inform system-level accountability and school-level improvement.

I want to highlight very quickly, before I conclude, the considerable resources we are applying in funding in our schools as a result of the bilateral agreement signed in 2017.

### **State Service Wage Negotiations**

**Ms WHITE question to PREMIER, Mr ROCKLIFF**

[10.48 a.m.]

Wages in virtually every public sector occupation are lower in Tasmania than in equivalent jobs on the mainland but, unlike in the past, housing is now less affordable in Tasmania than in most other states, the cost of fuel and groceries is higher than on the mainland, and power prices are rising thanks to your broken promise and refusal to cap power prices. As a result, inflation is higher in Tasmania than anywhere else in Australia.

As you have been told hundreds of times, today's industrial action is not just about wages. It is also about addressing the unsustainable working conditions in our essential public services. How are you going to address staff shortages in our public services if your final offer, as you keep repeating, will in fact give Tasmanian workers the biggest real pay cut in decades?

**ANSWER**

Mr Speaker, I point to my previous answers with respect to that, recognising the inflation effect and recognising the fact the offer we have on the table, particularly for those in band 3,

the lower end of the public service pay scale, of some \$70 000 annual income. When you take into consideration the 3.5 per cent in the first year and additional one-off payments, we are close to the inflationary effect of 8.6 per cent in Hobart. That demonstrates to me that in 2022, and across the next 12 months, that they are mindful of the inflationary impact. Now, if your position is 8.6 per cent compounding over the forward Estimates, that is an impact of some \$2.4 billion on our budget - and then we need to consider the inflationary impact that this would create for all other wage earners outside the public service.

I mentioned yesterday the \$70 000 at the lower end of the public service. There are a lot of people working in Tasmania for a lot less than \$70 000, so we need to be mindful of a fair and affordable pay rise, and the inflationary impact of that as well, and the impact on other people on fixed and low incomes.

There are a lot of factors to all this, but when you look around the country, with Victoria, Western Australia, New South Wales as a comparison, we are there in terms of our pay rise. Indeed, look at the Commonwealth and their offering of 3 per cent - we are above what the Prime Minister has offered the Commonwealth public service. We believe our offer is fair and affordable. It takes into account the inflationary impact, and takes into account -

**Mr Winter** - On average, Tasmanians are paid more than \$20 000 less.

**Mr ROCKLIFF** - Mr Speaker, it very much takes into account the impacts of inflation, and indeed on the budget as well. I reiterate the importance of mature discussion between government and unions to strike a fair, affordable and reasonable pay rise for our highly valued public service.

**Members** - Hear, hear.

### **Defence Industry Workforce - Update**

**Mr WOOD question to MINISTER for ADVANCED MANUFACTURING and DEFENCE INDUSTRIES, Ms OGILVIE**

[10.52 a.m.]

Can you update the House on how Tasmania is partnering to support the development of a skilled defence industry workforce?

### **ANSWER**

Mr Speaker, a skilled workforce will be the backbone of Australia's sovereign defence capability over the coming decades, and I am really pleased today to say that Tasmania is taking a leading role.

Today, industry stakeholders from across the defence industry and the skills and training sector descend on Hobart. The inaugural ADM Defence Skilling Summit will examine the current and future skills requirements needed for Australia to remain a global player in the development and supply of defence equipment and technology solutions.

Our defence supply sector continues to grow, with a number of significant contracts signed over the last 12 months. We are very pleased to bring more of our most senior national defence and training industry representatives to Hobart. It is why we have also facilitated an industry tour for summit delegates to take in the work of local defence supply organisations, including the much-loved PFG Group, Incat Tasmania, the Australian Maritime College and the Tasmanian Minerals, Manufacturing and Energy Council's Manufacturing Centre of Excellence.

Our Government is acutely aware that developing a skilled workforce remains at the core of industry concerns. We know that our defence industry and our manufacturers recognise that upskilling staff is critical for the sector to be responsive and to experience success in our modern economy.

We know the issue of attracting and maintaining a skilled workforce is being experienced across many sectors. I also see that in my responsibilities as both Minister for Small Business and Minister for Science and Technology, in particular. Whenever I am out talking to our defence suppliers or advanced manufacturing companies, they telling me the same things about their workforces. They tell me people love living and working in Tasmania. We know that to be true, and because our companies are winning significant defence supply contracts, there are opportunities right here. The defence industry is exciting, with planned defence investments stretching across decades. We see the kids of today following the footsteps of their parents and grandparents, and themselves becoming the future defence industry workforce.

The success of the ADM Defence Skilling Summit in Hobart may see it become an annual fixture in ADM's events series, which we would support. Growing and supporting Tasmania's defence industries is a key priority for our state, and hosting this event is just another way we are partnering with industry and our vocational, educational and training providers, with Mr Ellis in particular helping to make that happen, so we can make our sector even stronger.

In closing, I would like to reiterate that Tasmania remains committed to working with our partners to develop a skilled defence industry workforce, which is critical not just for Tasmania and our economy, but also for ensuring that the Australian Defence Force and our allies can continue to address changes in our strategic environment into the future.

To all those who have travelled to be here with us for the *Australian Defence Magazine* Defence Skills Summit, I would like to say welcome to Tasmania and welcome to Hobart.

## **Tasmanian Paramedics - Industrial Action**

### **Ms DOW question to PREMIER, Mr ROCKLIFF**

[10.55 a.m.]

Today, paramedics will not attend priority three, priority four and low-priority jobs between 1 p.m. and 4 p.m. - something they have never done before, and a decision that has not been taken lightly by our dedicated paramedics. They are taking this unprecedented action because they are under unprecedented pressure. Workloads are unbearable, overtime is the norm, ramping is out of control, and in your final offer you have ignored the solutions paramedics have put on the table.

What sort of leadership are you providing if even our dedicated paramedics have been left with no choice but to take unprecedented industrial action today?

**ANSWER**

Mr Speaker, first I acknowledge the extraordinary work of our paramedic staff and volunteers. I really enjoyed meeting a number of volunteers in Riverside on Saturday and thank them for the work they do across the state supporting our paid staff and paramedics. Collectively they do such a fantastic job.

To your point about the increased pressure, I want to assure Tasmanians that there are clinically led triage systems in place for those in our community who need emergency care.

In 2021-22, Ambulance Tasmania responded to 84 864 incidents, compared to 79 500 the previous year, representing an increase of 6.7 per cent. I well understand the increase. That is why we are devising and implementing reform with our secondary triage reform, PACER reform, and access and flow initiatives for our hospitals, to reduce the impact of ramping and bed block, which I know exacerbates the pressure on our paramedic staff.

As at 30 June this year, our Government has employed an additional 270 full-time equivalents at Ambulance Tasmania since we came to Government in March 2014. That is a 41 per cent increase, and we continue to recruit further. I was able to meet some of those individuals as part of the new investment upgrading the stations in Sorell and Huonville to 24/7 stations, which is an initiative we announced back in May.

We are also rolling out other initiatives. I have mentioned a couple. We have the community paramedics, as well as extended care paramedics. We are also piloting a transfer-of-care crew at the Royal Hobart Hospital, to facilitate the release of paramedics from the emergency department so they can respond to incoming calls for assistance. In the last 24 hours, there has in fact been a high level of demand. I commend all those who are working at the front line.

It is important to remind those opposite that we have delivered a 14 per cent increase for paramedics. My understanding is that those opposite spent \$1 million fighting a pay rise for our paramedics when they were in government. You need to be reminded of that. No wonder you are having a point of order.

**Ms DOW** - Point of order, Mr Speaker, standing order 45, relevance. My question was about the Premier's leadership and about the fact that paramedics are being pushed to take unprecedented strike action today.

**Mr SPEAKER** - I take your point of order on relevance. You can resume your seat; there is no need to make a comment. The Standing Orders do not allow on a point of order to continue the argument. The Premier, in my view, was answering the question. If you could be relevant to the question, Premier, that would be fantastic.

**Mr ROCKLIFF** - I am advised, and I stand to be corrected, that HACSU's claim that Tasmanian paramedics are some of the lowest paid in the country - and I am aware of some of that commentary - appears to be at odds with HACSU's New South Wales affiliate and counterpart, the Health Services Union, who have published data previously which ranks, in

fact, the pay of Tasmanian paramedics in the top four across all states and territories, and that is before the current pay offer is actually factored in.

Our Government values the work of our dedicated paramedics and the work they do every single day. Again, I urge unions and our industrial advocates to work with government in good faith. When you compare this Government in terms of not only pay increases, but also full-time equivalent increase to your previous Government, we are way ahead of you. Way, way ahead of you. You put forward a waste of \$1 million fighting paramedics and the pay rise that they wanted back when you were in government.

### **Tasmanian Paramedics - Industrial Action**

#### **Ms DOW question to PREMIER, Mr ROCKLIFF**

[11.01 a.m.]

Pathology and Public Health staff play an absolutely essential role in identifying, diagnosing and preventing the spread of disease across our community. Of course, over the past two-and-a-half years, they have been at the frontline of Tasmania's response to COVID-19. How is cutting their real pay any way to say thanks? How, after everything they have done for us in recent years, has your leadership driven them to the point of industrial action today?

#### **ANSWER**

Mr Speaker, I thank the member for her question. I have said many times today that we value our public service right across the frontline, whether that be our health professionals, our police, our educators, our child safety officers and service as well. That also includes those within our public health system, who have done a tremendous job over the course of the last few years.

Since the hotline started on 23 March 2020, some 1 400 000 calls have come in to the hotline. People had all sorts of distress and anxiety around vaccinations, around accommodation, around border arrangements, rapid antigen tests and PCR tests. A whole range of questions were coming in and one might remember back on 23 March 2020, there was a lot of anxiety in the community, and understandably -

**Greens members** interjecting.

**Mr SPEAKER** - Order.

**Mr ROCKLIFF** - On 4 January 2022, 14 035 calls came into the Public Health Hotline. You can imagine the work that has gone on on the frontline with our Public Health officials, those who support Dr Veitch to make those decisions to advise government and those at the frontline taking the calls.

I was very pleased to be able to invite a number of people on the Public Health Hotline on Monday evening to say an official thank you for the work they have done over the course of the last couple of years. They are an example of our hardworking health professionals right at the frontline who have done such a great job through the pandemic. We will always thank them and always value and support them with a fair, reasonable and affordable pay rise.

## **Department of Justice - Work Program 2021-22**

### **Mrs ALEXANDER question to MINISTER for JUSTICE, Ms ARCHER**

[11.05 a.m.]

Can you provide the House with an update on some of the work that has been undertaken by the Department of Justice in 2021 and 2022?

### **ANSWER**

Mr Speaker, I thank the member for her question and her interest in recognising the great work that is undertaken by all the dedicated and hardworking staff employed in the Department of Justice, and that includes across the Tasmania Prison Service, Community Corrections, CBOS and WorkSafe Tasmania who have done an enormous job protecting Tasmanians throughout the pandemic as well.

During the 2021-22 financial year, my department made significant progress on a number of key projects and initiatives and I am very pleased to be able to highlight some of the key achievements in the last 12 months that appear in the annual report.

Significantly, the new Southern Remand Centre achieved practical completion in April this year, delivering a modern, contemporary correctional facility specifically designed to meet the needs of people on remand. In conjunction with upgrades to existing facilities within the Risdon Prison Complex, the SRC will readily facilitate access to tailored services for remandees, including health and welfare services, work, education, rehabilitation programs, recreational activities, religious observance and other relevant activities and services. I can also indicate the public art project within the SRC is also a reflection for the indigenous population within the remand centre as well as a reflection centre.

This is an important project that I am very pleased to have personally championed as Minister for Corrections and Rehabilitation right from its inception, and it is very pleasing to see a major project like that come to fruition. I was particularly pleased that, despite the challenges we have seen in the construction industry in recent years, the build was completed on budget. The official opening of the centre in July was a credit to all involved in the project, and I am very pleased to see the new operating model successfully implemented over the last few months as we have decanted in our remandee population.

There are currently over 100 remandees being accommodated within this purpose-built facility, allowing us for the first time ever to separate remandees from sentenced inmates in a dedicated facility. I would like to recognise our hardworking TPS staff as well as our Community Corrections staff, who often go unrecognised in the great work they carry out for us in protecting and keeping our community safe.

My department has also continued to play a key and lead role in the Government's engagement with the commission of inquiry, a role which has been incredibly demanding, given the sheer volume of work, tight time frames and sensitive subject matter, of course. I wish to entirely support the secretary's recognition, included in the department's annual report, of all staff who have been involved in the commission of inquiry for the work they have done and they continue to do in this important area, particularly CARCRU.

For another year, the Government's strong legislative reform agenda has generated a significant workload for my department, with over 15 bills being tabled and/or passed by the parliament in that period alone. In fact, the average that I take through each year is around 18-19 bills. The annual report also notes a number of draft bills were also released for consultation and a range of policy projects progressed over the financial year.

**Opposition members** interjecting.

**Mr SPEAKER** - Order.

**Ms ARCHER** - I will continue with a strong legislative agenda. We are tabling some very major bills to come this year, particularly in response to the royal commission and the commission of inquiry.

I do not know why there is mumbling from the other side when I am talking about really important legislation to reform areas of child sexual abuse and still I get yelled at, Mr Speaker.

Through the Tasmania Prison Service, I have continued to increase the focus on rehabilitation of our offenders to address the causes of offending behaviour and improve the prospect of successful reintegration following release.

**Dr Woodruff** - Why are we sitting here in question time having a self-congratulatory list of the minister's everyday activities? This is a complete abuse of question time.

**Mr SPEAKER** - Order.

**Ms ARCHER** - This was supported by the recruitment of additional therapeutic staff during the last financial year and the launch of three new programs in partnership with community organisations. The Tasmanian Prison Service (TPS) has also embarked upon a significant recruitment drive to increase the number of correctional officers employed, with a major advertising campaign launched earlier this year and an unprecedented four recruit schools commencing in 2022 - the most recruit schools ever conducted in a calendar year by the TPS.

Mr Speaker, the parliament is the people's place and we have every right to inform Tasmanians of what we have achieved.

**Dr Woodruff** - And this is question time. We get to scrutinise what you are doing. This is not an adjournment.

**Mr SPEAKER** - Member for Franklin, order.

**Ms ARCHER** - To ensure that Tasmanians can access justice sooner, we have continued to support the courts with three additional magistrates and one additional judge, enhancing the capacity of the courts to hear and conclude matters.

Major technology projects also progressed during the financial year, or the reporting period. The first phase of functionality of Plan Build Tasmania by CBOS (Consumer Building and Occupational Services) went live, allowing users to see the planning zones and codes that apply to a particular property. Development of Astria, the digital solution that will replace



outdated and inefficient processes across the courts and corrections systems, continues with a phased implementation to commence next year.

A number of Budget initiatives and election commitments were also delivered: \$7 million of additional funding to the legal assistance sector and the implementation of the Primary Producer Safety Rebate Scheme, which has paid out over \$3.1 million by 30 June to improve safety on our farms. I thank WorkSafe Tasmania for their work in that regard, as well as the important role they have played throughout the pandemic.

In closing, the department has continued to progress a number of initiatives to support their people during the reporting period, such as the new wellbeing support service -

**Mr SPEAKER** - If you could wind up, please, Attorney-General.

**Ms ARCHER** - I am mentioning this, Mr Speaker, because it is really important. It provides a range of services to support the physical and mental health of our staff in the department. I am pleased to note that the take-up of this service has been positive in its first few months of operation.

These are a few of the examples of the department's achievements from 2021 to 2022. I express my sincere thanks to the leadership team and staff of the department for their tireless work in both delivering a number of significant initiatives and maintaining a high level of business-as-usual activity across the diverse range of areas for which the department has responsibility.

Our Government is committed to providing Tasmanians with an efficient and effective justice system and this confirms that we are delivering on these commitments as we progress our strong legislative agenda.

**Time expired.**

**TRAFFIC AMENDMENT (ELECTRONIC BILLBOARDS) BILL 2022 (No. 5)**

**ELECTRICITY SAFETY BILL 2022 (No. 11)**

**ROADS AND JETTIES AMENDMENT BILL 2022 (No. 12)**

**OCCUPATIONAL LICENSING (AUTOMATIC MUTUAL RECOGNITION  
CONSEQUENTIAL AMENDMENTS) BILL 2022 (No. 27)**

**Bills returned from the Legislative Council without amendment.**

**CORRECTIONS AMENDMENT BILL 2022 (No. 51)**

**First Reading**

**Bill presented by Ms Archer and read the first time.**

## LAND TITLES AMENDMENT BILL 2022 (No. 50)

### First Reading

**Bill presented by Mr Jaensch and read the first time.**

### STATEMENT BY SPEAKER

#### Resignation - Clerk of the House

**Mr SPEAKER** - Honourable members, I have a letter to read, addressed to:

Honourable Mark Shelton, MP  
Speaker of the House of Assembly  
Parliament House, Hobart

Dear Mr Speaker

I wish to advise you that after 41 years of service to the state, 34 of which I have been privileged to serve at the Table of the House of Assembly, I desire to lay down my patent as Clerk of the House of Assembly, effectively from 31 January next year.

I thank you, and through you, to your five immediate predecessors, my gratitude for the support and encouragement you so generously give to me.

I shall be grateful if you could inform the House of my appreciation of the friendship, kindness and respect invariably offered to me by members and former members of the 10 parliaments I have served.

I am indebted to my colleagues at the Table, past and present, and to the wider establishment of the House of Assembly and the Parliament of Tasmania for their support for me.

It has been my honour to have spent most of my working life in the service of parliamentary democracy and I shall forever be grateful for the opportunity that has been offered to me.

Yours sincerely

Shane Donnelly  
Clerk of the House

**Members** - Hear, hear.

**Mr SPEAKER** - I inform the House that an independent recruitment process will commence immediately across Australia and New Zealand to fill the position.

**Mr STREET** (Franklin - Leader of the House) - Mr Speaker, let us make it clear in the House that as much as Mr Donnelly will not like it, we will set something up before the end of the year to allow people to speak on his contribution to this place. This is even though, when it was suggested to him when I was told last night of his resignation, he pulled a face that made it quite clear that he did not want that to occur. It will occur anyway, and he will sit there and enjoy it.

## **SITTING TIMES**

[11.18 a.m.]

**Mr STREET** (Franklin - Leader of the House) (by leave) - Mr Speaker, I move -

That for this day's sitting the House shall not stand adjourned at 6 p.m. and that the House continues to sit past 6 p.m.

We indicated last night in what we sent around that we intended to sit past 6 p.m. today but it is our hope that the workers compensation bill can be completed in the hour or so after lunch, then we are going to forgo our Government private members' time to continue working on that bill.

We then want to bring on the Retail Leases Bill and would like to complete the committee stage and third reading of that tonight, if possible. We certainly have no intention for it to be a 2 a.m. finish but we would like to complete the Retail Leases Bill today.

[11.19 a.m.]

**Mr WINTER** (Franklin) - Mr Speaker, I appreciate that the House is updated, particularly in relation to Mr Donnelly. We look forward to being able to pay tribute to his service next week.

We also appreciate the Leader of the House's communication in relation to timings this week. It has been very good. However, the same point that I made last week is that we are now at the point where we have five sitting days left of this House. The Government's performance so far this year, having prorogued the parliament twice, which is a record in 40 years, for non-procedural reasons, has led to a record low number of bills passing this parliament, 23 at last count. We are not expecting too many more to be delivered over the course of this year. We are likely to get to a record, at least in the last decade or so and at least in the life of this Government, where this Government will deliver the smallest contribution in terms of legislative achievements ever in the history of this Government and probably for a very long time, Mr Speaker. It goes to show the chaos and dysfunction of this Government.

**Government members** interjecting.

**Mr SPEAKER** - Order.

**Mr WINTER** - You might laugh about it but this is what Tasmanians are seeing. How many resignations does this Government think it takes before it is chaos and dysfunction? The Deputy Premier is excited about it because he knows there is only one more he needs. He does his own numbers. He can count to at least eight. At some stage he will get to nine and there will be another change.

Mr Speaker, this is a serious matter because the business of this House is to do the right thing by Tasmanians and to achieve things - legislative change. This Government not only has almost no agenda, it has achieved almost nothing for the entire year.

**Members** interjecting.

**Mr SPEAKER** - Order, interjections should cease. The member for Franklin has the call.

**Ms Archer** - Who's next?

**Mr WINTER** - Mr Speaker, the Attorney-General says, 'Who's next?', and I wonder who is next as well. Who is next? We have former minister Jane Howlett, who is on Twitter almost every day talking about how much she loves the racing industry, campaigning to come back to this ministry - silence. She invites some of her colleagues to race meets at Elwick and some of them do not get invited. She shows photos of how much she is enjoying the industry - the minister is nowhere to be seen. It is only a matter of time before we have more resignations.

It might be uncomfortable and unfortunate for the Government but it matters to Tasmanians because the performance of this Government is impacting the lives of Tasmanians and real wages are falling. This Government is in crisis; it has been all year. Its performance has been terrible and the legislative achievements of this Government speak for themselves.

**Motion agreed to.**

## **MATER OF PUBLIC IMPORTANCE**

### **Real Wages**

[11.23 a.m.]

**Dr BROAD** (Braddon) - Mr Speaker, I move -

That the House take note of the following matter: real wages.

We know that the current inflation rate is the highest it has been since 1987 and the facts at the moment are that workers in Tasmania are going backwards at a rate of knots. So fast are they going backwards, it is the case that real wages now are less than what they were when this Government came to power in 2014. Workers have gone backwards. That is what this Liberal Government has delivered in eight years, Tasmanian workers going backwards. We know that wages in almost every public service occupation in Tasmania are lower here than they are for the same jobs on the mainland. An example is that teachers in Tasmania are \$5000 worse off than the same positions in Victoria.

Today we heard the Government talk about pay rises on the mainland and trying to draw some straw-man argument that the Tasmanian pay offer - the final offer they have on the table - is reasonable, but they have failed to take into account that the pay mainlanders receive is already at a higher base than what we have here. On top of getting paid less than the equivalent positions on the mainland, we see unsustainable workloads that Tasmanian public servants have to endure.

Tasmanian teachers' stress leave is up 54 per cent. That is something to be ashamed of. We know that 271 teachers quit last year. That is a record by some distance and that is because it is not just about pay, it is also about conditions. It is so bad that state public schools cannot get relief teachers when they need them. The system is crumbling and yet the Government have their heads in the sand.

Inflation is the highest it has been since 1987, but also consumer sentiment is plummeting in Tasmania because significant contributors to the price of the CPI increase, the cost-of-living increases in Tasmania, are things that families cannot go without. Things like electricity. The ABS says electricity was up 29.9 per cent; housing was up 14.3 per cent; food up 8.7 per cent, and transport up 4.1 per cent. Wages are going backwards, inflation is out of control and consumer sentiment is plummeting in Tasmania. Do not just believe me. Even Alan Kohler on the ABC in his business report last night singled out consumer sentiment plummeting in Tasmania and asked the question, 'What is happening in Tasmania?' That was on the national broadcaster - Alan Kohler talking about what is happening in Tasmania. That is how dire it is here, and this Government have their heads in the sand.

Teachers and staff across the public service are reducing their hours to cope. We know at our schools there are not enough teacher assistants so teachers have to perform non-core duties, like having to peg-feed students because there are not enough teacher assistants. We know that there is one social worker for every 800 students, which is nearly double the recommended ratio, and one psychologist for every 900 students. These support workers are vital in our schools. We also know that health checks are being missed for kids in their early years due to staff losses, and issues at the Child Health and Parenting Service, CHaPS. This is resulting in kids not getting diagnosed. They are not getting assistance. Problems are not being addressed. Early interventions are not happening. We also know that child protection is understaffed.

These problems are across the board in the State Service, problems in the health service; early intervention; lack of teacher assistants; lack of psychologists; lack of social workers; child protection under stress. For teachers, for example, that means that kids do not get the support they need because they have not been diagnosed and their funding for teacher assistants is not available. What is the actual result of that?

I will give you an example, Mr Speaker. A teacher, in the early stages of her pregnancy, was absolutely laid into by a kid in grade 1 or 2. She was in shock and had to have a couple of weeks off school. I cannot give the exact reason for that child's behaviour, but what I can say is that everything that is building up that this Government is not addressing results in incidents like this, where a pregnant teacher has to have a couple of weeks off because she is worried about losing her unborn child. That is the impact.

We heard about NAPLAN results going down, being the worst state in the country. What we have seen is cuts. We have seen the reliance across the State Service on overtime to fill gaps, relying on agency staff, short-term contracts. We are relying on locums in the health service, and we know this is poor budget management because it costs more and it puts more stress on staff. We see ambos basically finishing on time - their previous industrial action was actually to finish on time. It is only really goodwill and dedication that keeps the State Service going, yet they can find \$750 million for a stadium.

Here they are claiming that they are good-faith bargaining, but their whole bargaining strategy is to delay, to drag things out as long as possible and make threats like, 'If you don't sign up to this final agreement you won't get back pay'. We saw in question time today them blaming staff for having been forced to take industrial action. Final offer: that is not good-faith bargaining by any means. Meanwhile, we see other states attempting to poach our workers with sign-on bonuses and relocation allowances. This is on top of getting paid more. This is what Tasmanian workers are facing.

This Government has backed these workers into a corner. These workers see that they are worse off now than they were in 2014 when the Liberals came to government. They see inflation running out of control. They see their cost of living rising every day and they have had enough. That is why they are striking. They are not doing it out of malice, they are not doing it to be disruptive, they are doing it because they have been left with no alternative. How can we expect Tasmanian public servants to get paid less for worse conditions, and then just take it, because this Government will not come to the table and bargain in good faith?

### **Time expired.**

[11.30 a.m.]

**Mr FERGUSON** (Bass - Treasurer) - Mr Speaker, I heard no solutions or policy whatsoever from the shadow treasurer. No commitment to the challenge that was posed during question time this morning by the Premier: well, what number if not 3.5 per cent in the first year, and 3 per cent in the following two years - which we are clearly on the record for?

Labor put up questions - and now an MPI headed Real Wages - but the Labor Party is only prepared to do the rhetoric, and the politicking. They are not prepared to put a number on it, as we are.

We have been very clear about that. We have a position. We are prepared to explain it. We recognise the very real inflationary pressures that are being felt by Tasmanians right now, and we are acting to support particularly those people who have far less ability to manage increasing costs of living; and it has to be said they are people on lower incomes. The Government's position here is very well in step with governments around Australia.

In particular, it is useful for the House to beware - as the Premier outlined this morning - of comparisons with wage offers that are being made by other Labor governments, including the Commonwealth.

This is uncomfortable for Dr Broad, who is not prepared to say what percentage the Government should be offering. When they go out later this afternoon, wearing their interesting badges on their lapels - although I notice that not all the Labor members are wearing them - what will they say to those workers about Labor's position on wages policy? All they are prepared to say is that we do not want to see your real wages go backwards. That is all they will say.

To an ordinary person listening, does this not mean that Labor is making a case that wages should follow inflation? No serious economic theorist or treasurer in this country would say that - Liberal, Labor or otherwise. There is not a single economic adviser who would recommend such a reckless and foolhardy proposal that government wages policy mirrors the inflation rate. If you put up a case, as you are, about real wages, that is a comparison about

wages compared to inflation. It is an indicator of the value of money. Yes? I hear the yes, so that is fine.

If you are making a case that there should not be a real wages decrease, then you are actually making a case that wages policy should match inflation. To put it another way, you have an inflation spiral, because that is what it means.

Labor is being extremely reckless, but they are also playing with people's hopes and their lives. It is a cruel hoax that they are playing.

I reflect that we have 270 000 people in work in Tasmania, of whom about 29 000 are our public servants. The Premier, on behalf of the Government, has been very clear that we value our public servants. The proof is in the pudding. We have employed 4000 more of them since the dark days of the Labor-Greens government, across all portfolios, right across the Government.

Dr Broad spent most of his seven minutes in the MPI not at all talking about real wages. He talked about pressures on workers in workplaces around Tasmania, which we have acknowledged as real. The pressures are real but interestingly the MPI is about real wages.

We have a position. We believe we can fund it. We have been very clear as well that if you want to peg wages policy to inflation, you are going to have to show \$2.4 billion of additional spending in your alternative budget. Of course you will avoid that, because you never put your alternative budget forward - because you do not have one. You are just rhetoric. You are surviving on rhetoric. You are surviving on political stunt speeches like the one that Dr Broad gave.

**Opposition members** interjecting.

**Mr SPEAKER** - I remind the Opposition that they were heard in silence.

**Mr FERGUSON** - I want to take the House back a week or two ago, when I released the Treasurer's annual report, the TAFR. What did Dr Broad have to say about that? He whinged and moaned about debt. If Labor wants the Government to spend another \$2.4 billion on wages, what impact would that have on debt, I wonder? I believe it would have a fairly negative impact on debt.

Dr Broad has form in this space of speaking from both sides of his mouth. He has said Tasmania is experiencing a population recession.

**Dr Broad** - We did.

**Mr FERGUSON** - That is wrong. It is entirely wrong. I am glad *Hansard* caught him saying that we did. Also, the shadow treasurer claimed Tasmania was experiencing an economic recession. I think he used the word 'technical' economic recession. Our economy has grown. I think we are one of the only state economies that actually grew in each financial year - including through the pandemic.

He also recently said that retail trade was plummeting.

**Dr Broad** - It is.

**Mr FERGUSON** - Oh, he says it is? That was in the month when Tasmania had the second highest ever retail spending data, and yet Dr Broad said it was plummeting: talking the state down and rubbishing our economy. However, I also want to acknowledge that Dr Broad has come forward with a real problem: inflation.

**Dr Broad** - You are talking a lot about me today.

**Mr FERGUSON** - You have just presented your MPI, Dr Broad, and I am responding to you, if you give me a moment.

**Dr Broad** - You are focusing on me and not the issue. You are not focusing on the issue at all.

**Mr SPEAKER** - Order.

**Mr FERGUSON** - Something is under your skin. I listened to you, and I would like to respond. It is a real problem. What you cannot do is simply match wages policy to meet inflation. Dr Chalmer's -

**Dr Broad** - Oh, dear.

**Mr FERGUSON** - Dr Broad, if you just allow me to be heard. Dr Chalmers has been clear about this with respect to the Australian jurisdiction. The Reserve Bank of Australia has been clear about this as well, and has warned against foolhardy policy settings, such as the one Dr Broad is advocating.

Dr Broad, if the Labor Party wants to bring forward a real problem, you need to bring forward real solutions. Your moaning and groaning does not add to a solution. We want to see our public servants receive a fair and affordable pay rise.

[11.37 a.m.]

**Ms O'CONNOR** (Clark - Leader of the Greens) - Mr Speaker, I will say to the Treasurer, for the record, that the Reserve Bank of Australia supports wage suppression. They have jacked up interest rates in response to inflation - inflation that is largely being caused by corporate profiteering. I will point the Treasurer to some recent statements from the Reserve Bank where they are very worried about wages. They want to continue to be part of wage suppression in this country. The Reserve Bank is arguably part of the problem.

Thank you to Labor for bringing on this MPI. If we want to have an idea of what Labor's position on public sector wages is, I point members to the notice of motion that will be debated by Labor today, and the punchline. The final line does not say 'pay public sector workers wages that at a minimum keep up with increases in the cost of living'. What it says is, treat public sector workers 'with the respect they deserve in wage negotiations'. We can all agree with that, but it does not say that Labor supports the union's claim. It is important that this is placed on the record.

Mr Speaker, the state is in a period of industrial chaos. We should acknowledge that for unions to take that step of embarking on wide-scale, statewide industrial action means they



have been pushed to the brink. It is an enormous step for a union to make on behalf of its members: to ask members - whether they be teachers or child safety workers, firefighters, paramedics or any other State Service worker - to walk off the job.

As we know, our public sector workers are dedicated to doing their jobs in the public interest. We are at this point because there has been a failure in the negotiations. That is what the Greens believe. It is the last resort.

In the Australian Bureau of Statistics' latest release of CPI figures, Hobart had the highest rate of increase in inflation across the year to 30 September 2022. Inflation rose by 8.6 per cent in Hobart, as we heard this morning. It is 1.3 per cent above the national average. That is a sample of the pain being felt in the community. We know the rapid increase in the cost of living is affecting all Tasmanians no matter where they live. Why can we not have a consensus in this place on the measures we could take to reduce the cost of living? Reining in rents, making public transport free, and rolling out more energy efficiency: there are things we could be doing collectively as a parliament to significantly put downward pressure on the cost of living with those levers the state and the parliament has at its disposal.

We also know that nondiscretionary inflation or price rises affecting essential goods and services are rising at a much higher rate than the overall inflation figures. Nationally non-discretionary inflation sits at a full 2.9 per cent higher than discretionary inflation and again that is down to corporate profiteering. The biggest increases we have seen have come in housing and food, and these are unavoidable costs. This is survival expenses for the people of Australia. Meanwhile, wage increases remain pathetically low as they have for more than a decade.

In real terms, wages are going backwards and it is happening fast. It is exponentially accelerating. Putting a meal on the table for your family, or having a place to call home, should be non-negotiable in such a wealthy nation as ours but every week more people are being forced into making impossible choices so they can make it to the next pay cheque - and many of these people are public sector workers.

The wage offer made by this Government would not meaningfully address this. Tasmanian public sector workers are already lagging the nation when it comes to pay and they see this Government has its priorities wrong and that would also feed into their frustration. This is a government that wants to pour \$400 million or so of state funds, no doubt secured through debt, into another stadium on an island which has plenty. The Premier might be crowing that his current pay offer is slightly above the current offer in other states but it is our understanding that the Queensland government has offered a 4 per cent pay increase as well as improvements in working conditions. The Premier's argument is much more spin than substance. Dr Woodruff and I are not surprised about that.

Under this offer, Tasmanian public sector workers would still take a massive pay cut in real terms and would still lag the nation. Hopefully, in the future, Australia will be in a situation where there are enough teachers, support staff, paramedics, nurses, doctors and child safety workers to staff every state's system. These are the people who hold the fabric of our society together. Today's reality is that we are in direct competition with other states for these critical workers. If we do not treat our public sector workers well and pay them fairly, we will find ourselves moving even further in the wrong direction.

Queensland is now recruiting people from Tasmania. The crisis in health should be of the deepest, gravest concern to us all. This morning in the emergency department of the Royal Hobart Hospital there were 55 people waiting to be seen. We know this is in significant part a consequence of this Government's decision to let rip a dangerous respiratory vascular virus that has long-term consequences. We know that. We know this virus dampens people's immune systems, that it is damaging children's immune systems and that, in all likelihood, explains why there are so many children in the paediatric wards with RSV.

In our schools, class sizes are growing and the numbers of teachers quitting the profession continues to rise. It could get so much worse. We know COVID-19 has had an impact there too. I have spoken to long-term educators who are leaving because COVID-19 has been let rip in our schools. The same goes for many other critical areas in our public service. We have seen the critical importance of improving child safety services, but how will we safely staff the system if the pay and conditions are not fair?

**Time expired.**

[11.44 a.m.]

**Mr WINTER** (Franklin) - Mr Speaker, I also rise to also speak on real wages. This is a critical issue for Tasmania. It has been for a long period of time. Tasmanian wages have long lagged the rest of the country and continue to do so. Tasmanians earn the lowest on average of any state or territory across the country and far lower than average wages across the country itself. Tasmania, according to the ABS statistics from May, will earn, on average, \$200 less per week than the average across Australia.

The ACT was mentioned in question time. Tasmanians will actually earn, on average, \$415 less per week than a worker in the ACT. Victoria was mentioned. Tasmanians will earn \$182 less per week on average than Victorians. New South Wales was mentioned. Tasmanians earn \$222 on average less than a New South Wales worker. Western Australia was mentioned. Tasmanians will earn a whopping \$369 less on average than a worker from Western Australia.

That is the reality of where we live. We have spoken about this in parliament quite a few times over the past 12 months, in particular, as inflation has taken hold. It used to be the case where Tasmanians begrudgingly accepted that we might get paid a little less when our cost of living was much lower. However, our cost of living has increased incredibly over the past 12 months in particular, but we have all known for a very long time that Tasmania, and Hobart in particular, is the most expensive place to rent anywhere in Australia. Our petrol prices are higher than almost the rest of the country. We are all being hit by increased interest rates and power prices.

Tasmanians have been let down by this Government's failure to deliver and get the basics right on power prices. Their broken promise to delink from the National Electricity Market, that they said would save Tasmanians an average of 7 per cent to 10 per cent on their power bill, has led to Tasmanians paying 12 per cent more for their power bill this year. According to Mark White from Goanna Energy, it looks to be around 20 per cent to 25 per cent in the determination for next year. If you read the federal budget, you will see price rises across the market of 30 per cent and then 20 per cent over the next 12 months.

We have both a wages issue and we have an expenses issue. The Treasurer was right on one thing he said, which was the definition of real wages is about purchasing power. Under the definition that Dr Broad gave in his opening remarks:

Tasmanians, when it comes to their purchasing power, are doing worse now than they were in 2014. Inflation has actually outstripped wages growth in this state. Tasmanian workers, Tasmanian households are worse off now than when this Government came into power.

That is a huge problem. That is a problem for every household that is dealing with this. Real wages are a product of wages and of expenses. This parliament cannot do much about interest rates. There are some things that we cannot do much about. However, there is one thing that this parliament can do something about and that is power prices. Because of Labor, because of our historic investment in energy for 100 years across this state and because of Labor's successful campaign to keep Hydro Tasmania in public hands in 1998, Tasmania does have the opportunity to do something that other states do not have the opportunity to do: to cap power prices.

The Treasurer said that Dr Broad did not have any ideas and then presented no ideas. The Treasurer of Tasmania presented nothing for families, as he did in his budget this year, presented nothing. In fact, he cut cost-of-living support for Tasmanian families during a cost-of-living crisis. The Treasurer and Labor do have a suggestion for real wages and that is to cap power prices and we have suggested that. This Government effectively voted against its own bill earlier this year. The 2018 price cap legislation that this Government brought through did save Tasmanians and it could have saved Tasmanians money this year but they chose not to do it. It could save Tasmanians next year but the Premier has already ruled that out.

This is a very concerning situation for Tasmanian families who are choosing between heating and eating. That is becoming more and more of a problem, not just for households, but for small businesses that are paying more for electricity and for contracted customers. We are hearing from so many businesses that are paying twice as much for their power, contracted customers, or who are looking to recontract and are being offered prices that are so exorbitant they are not sure whether they can go on as a business.

One business owner told me that he was going to be unable to restart his business when he planned to next year. This is a major business that is looking to employ hundreds of Tasmanians but cannot get a power price. This is in a state where we own our major generator, where we have historically had low prices that have enabled large and successful Tasmanian companies to thrive and prosper in Tasmania in places like Bell Bay and Glenorchy with the zinc works. We have been able to manufacture and build things in Tasmania because of a historic investment that has allowed Tasmanians to pay Tasmanian prices for Tasmanian power, but it seems no more.

As to the economic regulator's work in terms of power prices that the minister seemed enthusiastic to talk about yesterday, I was surprised he was enthusiastic to talk about it because it shows that Victorian households are now paying less than Tasmanians for electricity because of this Government's failure to deliver on the basics and their broken promise on power prices.

Instead of having 7 per cent to 10 per cent less in power prices it has gone up by 12 per cent and that is hurting every Tasmanian who pays a power bill, and that is almost all of

them. This is a really difficult time for households. We are in a cost-of-living crisis and we have been for a very long time. This Government does not get it. I do not think they are in touch with the pain that Tasmanians are feeling, both in terms of households and businesses, who are doing it really tough.

We have a long-term wages problem in this state where we are not being paid enough and we have a rising cost-of-living problem. Those two things are making life very tough for Tasmanians and I think this Government should acknowledge it.

[11.51 a.m.]

**Mr TUCKER** (Lyons) - Mr Speaker, what percentage does Labor think we should go with? What is their Labor policy? What is their wages policy? Labor's appalling industrial action which does nothing to contribute to wage negotiations. You could call them the protest party but I would say they are downright reckless.

It is clear Labor has no policy and no position on wages. Predictably, Labor wants us to use the GST windfall to pay wages. That shows exactly why they are so inept at budget management. GST revenues are notoriously volatile, Dr Broad. Labor's own federal colleagues have an expectation of the economy that illustrate the risks in the short term. We will not be like Labor who wrecked both Tasmania's finances and wrecked Tasmania's economy through poor management. When that happened, what did they do? They slashed the public service and cut essential services. Let us not forget when Labor was last in office they got rid of over 1500 public servants, 108 police officers, sacked a nurse a day for nine months, cut nurse graduates, tried to shut schools - and Mr Speaker, Dr Broad is running away from his own MPI. They stood down correctional workers at the prison with no pay, spent every cent of the superannuation provision for public servants, and spent \$1 million fighting against a pay rise for paramedics, Mr Winter.

They were identified as Australia's worst employer nationally in a survey by the CPSU and HACSU in March 2013, which found 5000 workers felt devalued and disrespected. That is the level of respect they had for our hardworking public service. We have not forgotten and the Tasmanian people have not forgotten. Grow a backbone, do not be a sponge and tell us what percentage.

We have a strong track record on budget management and on economic management and we will continue to be careful managers for all Tasmanians. That is what Tasmanians expect of us. Our Government is committed to negotiating with all unions in good faith to deliver wage increases for our workforce. The Premier has met with the public sector unions and the head of the State Service has met on a number of occasions since 15 September to work collaboratively with unions to resolve wage negotiations.

The head of the State Service provided a final offer to unions on 28 October in relation to base salary increases and standard conditions. While it will result in a significant cost to the budget, it will deliver public servants a pay rise in response to cost-of-living challenges. The final offer provides for a three-year agreement with increases to wages by 3.5 per cent in the first year and 3 per cent over the next two years, which is more than competitive than most other states. It is more competitive than what the Australian Government is offering its own workers and is 1 per cent above the budget allocation of 2.5 per cent.

We also offered a revised one-off cost-of-living retention payment each year of \$1000 to all employees in years one and two and \$500 in year three. In addition, there is a one-off low-income payment of \$1000 for those earning up to the equivalent of general stream band 3, which is currently \$72 118, with the \$500 flat rate increase to the base salary to those employees. Furthermore, there will be a \$500 one-off payment in years two and three. This means that those on incomes on band 3 equivalent and below will get an equivalent of between 6.97 per cent and 8.83 per cent in the first year.

We have also offered a range of new and extended leave entitlements. The Government has continued to listen to the feedback from the unions after the initial offer was made. That is why we made this final offer. However, it is continued to be made clear to unions at meetings with the head of the State Service that while our Government is committed to wage increases, we are also committed to delivering a fiscally sustainable budget, and we cannot agree to a wage increase we cannot afford or that cannot be offset with savings. Unions have committed to consider this final offer and discuss it with the members and provide a response to the head of the State Service by 11 November.

I find it disappointing that unions indicated they would be taking strike action today, on 9 November, even after being informed a final offer was still to come to them by the end of the last sitting week. They called this strike without seeing that offer. This is not working with us to negotiate in good faith. Strike action only hurts Tasmanians who rely on our State Service.

The head of the State Service has communicated with all agencies and planning will commence for contingencies to ensure continuity of services and safe workplaces are maintained during the day.

As I say, industrial action taken during an active negotiation process is regretful. When that has an impact on Tasmanians like parents or disrupts the education of students, it is very disappointing and not a laughable matter, Dr Broad.

Negotiating in good faith requires good faith by both parties. This industrial action is only likely to contribute to delays in the negotiation process. However, the Government remains committed to finalising and reaching an agreement by 1 December to ensure our hardworking employees get a pay rise.

**Mr Winter** - It starts at 1.45 - you should head out there.

**Mr TUCKER** - All we want to know from you, Mr Winter, is what percentage you will offer.

**Matter noted.**

## **WORKERS RHABILITATION AND COMPENSATION AMENDMENT BILL 2022 (No. 48)**

### **Second Reading**

**Continued from 8 November 2022 (page 74).**

[11.59 a.m.]

**Dr WOODRUFF** (Franklin) - Mr Speaker, I have nearly finished my contribution. I want to talk about the responses that I understood stakeholders made in relation to this bill around firefighters' health and safety. I understand it was well supported by the Council on the Ageing and also had the support of the Health and Community Services Union, the CPSU, Unions Tasmania, the Australian Education Union Tasmania, the UFU and there may have been more unions who were also at a meeting, but I understood that those, at least, were there and provided their support for the changes in this amendment bill. It seems the response of insurer bodies was not so supportive. I take that to be about the right balance on these matters.

Section 87 essentially provides workers with an extra year where there will be less disadvantage for them if they are injured two years prior to pension age, rather than if they are injured one year prior to the pension age, as it is now, that they are able to make a claim. We strongly support the Government's section 87. I am glad the minister reached that conclusion and supported the concerns. Having a group of workers who feel as though their work is valued, the risks they take in their work, that if something happens to them, a health issue arises, that they will be supported by their employers. A meaningful and just balance has been struck.

In wrapping up, I will ask the minister some questions. Can the minister provide information on any long-term health screening firefighters get in relation to their exposure to dangerous toxins - what is happening in Tasmania and what toxins the screening might pick up? Are there any conversations about Tasmanian firefighters being able to take advantage of the new therapeutic blood donation intervention, which potentially provides real hope for firefighters who have been exposed to -

**Ms Archer** - Was that therapeutic blood donation?

**Dr WOODRUFF** - Therapeutic blood donations is where you can remove a toxin. In this case, you could remove perfluoroalkyl and polyfluoroalkyl substances (PFAS) but also other toxins, I understand, through a therapeutic blood donation - a venesection, which means that blood is removed and screened and, yes, if it has those toxins in it -

**Ms Archer** - I probably will not be able to answer that.

**Dr WOODRUFF** - It is something in this suite of responses about looking after firefighters and doing what we can to prevent their death from those cancers. It is something already supported by Medicare in cases of haemochromatosis. There is an analogue there in our federal health system in approaching other diseases.

Maybe you cannot answer this, minister, but has the Minister for Police, Fire and Emergency Management been in conversations at the federal level about having this service, therapeutic blood donations, made available to firefighters and advocating for that to be an option under Medicare? I would like to hear the state's response on that.

[12.04 p.m.]

**Mr ELLIS** (Braddon - Minister for Police, Fire and Emergency Management) - Mr Speaker, I thank the Greens member for Franklin for that contribution. I am happy to follow up on further information about what conversations we have had at official levels.

I speak today in support of the Workers Rehabilitation and Compensation Amendment Bill 2022. The Tasmanian Government recognises that the work firefighters do is tough work and they are there for us when we need it most. They are there on the front line for house fires, bushfires and road crashes, and also undertake important work in our communities to prevent bushfires. They have done a power of work, combining with other emergency services, just recently in major flooding that has occurred in Tasmania.

In undertaking this critical work, our firefighters can be exposed to a number of known and suspected carcinogenic and toxic products, including liquids, gases, and particulate matter, through their work responding to fire events. This exposure is not just on the fire ground; contaminants can remain on firefighting equipment and need to be thoroughly cleaned. There has been a real shift away from the image of firefighting gear caked in soot as a status symbol and a greater understanding of how chemicals can affect a firefighter's health.

It is widely accepted that firefighters are at a greater risk of developing certain cancers as a result of being exposed to hazardous substances due to the nature of their work. Recognising the need to support our firefighters in their line of work, Tasmania was the first state in the nation to adopt presumptive cancer legislation for our firefighters. In 2017, our Government extended the presumptive cancer legislation to cover Tasmania's 5000 volunteer firefighters. This important reform recognised the invaluable contribution a significant number of volunteer firefighters make to community safety in Tasmania. Now our volunteers are able to access the same support as career firefighters.

Firefighters suffering any of 12 cancer types are presumed to have contracted the disease from their work, unless evidence suggests otherwise. The 12 cancers include: primary-site brain cancer, primary-site bladder cancer, primary-site kidney cancer, primary non-Hodgkin lymphoma, primary leukaemia, primary-site breast cancer, primary-site testicular cancer, multiple myeloma, primary-site prostate cancer, primary-site colorectal cancer and primary-site oesophageal cancer.

These critical reforms mean that firefighters across Tasmania's emergency response organisations are able to access medical support, leave and compensation, removing any potential support burden that would otherwise be the responsibility of the firefighters themselves, or family and friends.

However, as the Attorney-General has described, there is a group of workers employed in firefighting and fire prevention operations in the Tasmania Fire Service who are not covered under existing legislation, namely the Bushfire Risk Unit.

The Bushfire Risk Unit provides a single, coordinated strategic approach to fuel reduction burns in Tasmania. The unit collaborates across government and non-government organisations to coordinate burns. There are currently 41 fulltime employees in the unit. The unit is responsible for planning and preparing, consulting and communicating with communities about the fuel reduction program, and addressing any public concerns, as well as carrying out the burns. During the bushfire season, the Bushfire Risk Unit provides support for firefighting by working in planning and intelligence roles, including mapping, intelligence-gathering, situational analysis and helping with incident control.

Tasmania's fuel reduction program is nation-leading in its tenure-blind strategic risk-based approach to fuel reduction. The aim of the fuel reduction program is to strategically

reduce bushfire risk in areas of greatest risk to provide the most protection to Tasmanian communities. The Government continues to invest strongly in fuel reduction because it works. Each year we invest \$9 million in the fuel reduction program. In 2021, there were 231 fuel reduction burns completed across Tasmania. As at the end of October, the Bushfire Risk Unit had conducted 219 fuel reduction burns across the state for 2022. Many more burns are planned, conditions permitting, for the remainder of the year to keep Tasmanian communities safe.

I recently met members of the Bushfire Risk Unit and have been briefed on the work they do. As part of this, I was shown the modelling they complete to inform their burns and reduce impacts on communities, and to measure the success of the work they do. All members of the Bushfire Risk Unit are passionate and committed to their important roles. The operational arm of the Bushfire Risk Unit carries out the fuel reduction burns after considering planning and community engagement has occurred. Burns are occurring across our state this week due to the ideal weather conditions. Some of the Bushfire Risk Unit is working out of the new \$6.5 million emergency management centre to coordinate these burns. I was there just yesterday. They are doing a fantastic job.

Members of this unit light the burn according to their informed plans. After the burn, the Bushfire Risk Unit monitors any ongoing burns until the burn is safe. If needed, the Bushfire Risk Unit can seek support from the TFS career and volunteer firefighters, the Parks and Wildlife Service, or Sustainable Timber Tasmania.

However, where the TFS, Parks and Wildlife and STT are already covered by the Workers Rehabilitation and Compensation Act and the Bushfire Risk Unit, members are not. Despite their comparable duties, the employees of The Bushfire Risk Unit are not currently covered by the act, because the presumptive cancer provisions in section 27 only apply to a certain definition of firefighters.

The definition of 'firefighters' is currently limited to career firefighters, volunteer firefighters and occupational firefighters, so I really commend the Attorney-General for extending the definition of firefighter to include the Bushfire Risk Unit, therefore extending the presumptive cancer provisions for this critical team.

As the Attorney-General has described, these amendments will ensure that employees of the Bushfire Risk Unit of the Tasmania Fire Service are entitled to the presumption that when a firefighter, meeting relevant criteria, is diagnosed with a specific cancer, it is presumed, in the absence of evidence to the contrary, that firefighting was a substantial contributing factor to the disease. This is the same presumption that is already provided under the act for other Tasmanian firefighters.

These workers are required to fight fires in the course of their employment, and they do so to protect Tasmanians. They deserve the same protection as others already covered by the legislation.

Importantly, this legislation ensures that members of the Bushfire Risk Unit have recourse to compensation, as part of their employment, if they are diagnosed with cancer. As the Attorney-General has stated, the coverage is affordable. It is estimated that extending coverage to firefighters in the Bushfire Risk Unit would cost an additional \$53 000 per annum, which is 1 per cent of the cost of all firefighters covered by section 27 of the act.



This bill is the latest to add to our Government's strong record in progressing legislative reform to protect Tasmanian firefighters and emergency responders. This bill is in addition to this Government's introduction of nation-leading PTSD legislation in 2019, which means Tasmania's public servants can more readily access work-related compensation for a diagnosis of PTSD -

**Ms Archer** - There you go, that was a Liberal government.

**Mr ELLIS** - Absolutely, an outstanding contribution. We want to make sure that these people who have kept us safe are looked after. I really appreciate the Attorney-General's work in this space.

Mr Speaker, this legislation was the first of its kind in Australia, with Tasmania the first jurisdiction to legislate a presumptive provision for PTSD. This Government is paving the way to ensure that there is proper recognition and support in place for people who are presumed to have their PTSD or cancer through their line of work, serving the community.

Further to this, in October 2021, the Tasmanian Government welcomed the announcement that the Tasmania Fire Service would initiate a voluntary PFAS, a blood-testing program. This initiative allows Tasmanian firefighters to undertake a blood test to understand the levels of PFAS in their blood -

**Ms Archer** - You have just answered Dr Woodruff's question.

**Mr ELLIS** - I think hers was around Medicare?

**Ms Archer** - No, that was the second question.

**Mr ELLIS** - Oh, right, fantastic. Apologies, I did miss that. Pleasingly, all tests so far have produced in-range results, so that is a really good thing. The program is ongoing, and I encourage any firefighters, whether they are career or volunteer, to get their blood tested, particularly if they have concerns.

The Government has also rolled out the nation-leading health and wellbeing unit in support of our firefighters and emergency responders. It is something we are extremely proud of. We have already invested \$7.5 million, and have committed \$3 million per annum to the program, to continue to provide proactive, preventive and supportive mental and physical wellbeing care for our amazing emergency responders.

Under this Government, the Department of Police, Fire and Emergency Management wellbeing unit has grown to 23 FTEs, so that there is always someone available to assist our emergency service responders.

As part of our health and wellbeing program toolkit, an online cancer risk assessment became available in August 2020 for volunteer and career firefighters. Mr Speaker, I want to pay tribute to your role in providing a lot of this support to our firefighters and many of our first responders - a truly fantastic legacy for the work that you did in your time. I am very pleased to follow in your footsteps, and of course pay tribute to my immediate predecessor, Jacquie Petrusma. The care and dedication that she showed in this role was truly outstanding and a role model for us all.

As I said, as part of our health and wellbeing program toolkit, an online cancer risk assessment became available in August 2020 for volunteer and career firefighters. Firefighters can complete the risk assessment and will receive a risk score of: green, low risk; amber, medium; red, high risk. If firefighters receive amber or red, they will receive a phone call from an external provider, which reinforces that the screening is not diagnostic, but the firefighter is encouraged to attend their GP to discuss risk factors.

Both career and volunteer firefighters also have the opportunity to undertake a lung function test as part of MyPulse - which is of course the Tasmanian Government's award-winning health and wellbeing program that truly is leading the nation.

The program also extends support to family members, and undertakes a crucial role in supporting our emergency responders who bravely undertake daily duties attending incidents that some of us will never experience in our life - and certainly almost all of us hope we will not.

To ensure their workplaces are safe, the Tasmania Fire Service is also progressing a project to install personal protective clothing separation facilities at fire stations, to keep dirty clothing separated from the living quarters of the station or, for volunteers, from the main part of the station, and also to keep clean clothing separate from the exhaust fumes of the fire trucks.

Separating the PPC from truck exhaust fumes and other materials ensures that the uniforms are clean when the firefighter puts them on to attend an incident. Likewise, once back in the station after the incident, the dirty clothes can be left in a separate area so that they do not contaminate the clean zones.

I have been pleased to see best-practice examples of this separation zone at the Hobart fire station, where the separation zone includes showers and a wet area. I have also seen, firsthand, the separation rooms at Brighton, Lenah Valley, Cambridge, George Town, and many other stations that I have visited in recent months.

Of course, there is more work to do, and I know many other stations are looking forward to receiving that capital upgrade. The State Fire Commission has allocated \$280 000 per year over the next four years to complete the separation work.

When a fire occurs in Tasmania, our firefighters run towards the flames to save lives and property. These are heroic members of our community.

Our Bushfire Risk Unit undertakes the critical lifesaving work of fuel reduction burns in our communities. I am so deeply grateful for the work they do.

To conclude, I am pleased to support the Workers Rehabilitation and Compensation Amendment Bill. I thank the Attorney-General for her outstanding work on this, and my predecessors as well. This latest significant suite of reforms confirms that our Government is continuing to ensure our laws are strong and robust to protect and support our emergency service workers while in the course of their work. We can be proud of these important legislative reforms to support the critical emergency services, and the personnel who are there for us every day.

[12.18 p.m.]

**Ms ARCHER** (Clark - Minister for Workplace Safety and Consumer Affairs) - Mr Speaker, I thank all members for their valuable contributions to this amendment bill to the Workers Rehabilitation Compensation Act 1988 - two separate amendments, as I covered in my second reading speech, in relation to workers in the Bushfire Risk Unit, and also for older workers, to whom minister Ellis has just referred.

At the outset, I take this opportunity to acknowledge the hard work of our departmental staff, but particularly WorkSafe Tasmania, under which this act falls, and the work they have done in relation to this. A significant amount of work obviously goes on in preparing a bill, even if it just deals with two sections. I can guarantee that even with this bill there was significant work, not least of all because we needed to do extensive consultation because it dealt with two separate areas, but also so that we had the full stakeholder support that Dr Woodruff mentioned in her contribution.

It is particularly important, with an act like this, to try to get broader stakeholder support and that we also get the balance right.

I want to move to answering the few questions that were asked by members. I note that Ms O'Byrne is unable to be present today in the Chamber but note that there are two members of the Opposition here and obviously Ms O'Byrne will be able to see my response, or read it by way of *Hansard* if she is not diligently watching online at the moment. I say that in jest as she probably cannot.

There was a question about whether there had been any disputed claims under section 27 in recent years. I can cover that. All workers compensation claims lodged since 1 September 2019 for an eligible cancer for an eligible employee under section 27 have been accepted.

Another question was whether the work being undertaken by the WorkCover Tasmania board to consider the inclusion of the additional cancers for firefighters be completed faster, noting it is intended to be completed at the moment before the end of 2023, and whether the review could be conducted using a risk framework rather than an evidence framework.

As planned, the board has made its plans to complete the review and provide it to me in 2023. I must say at the outset that the board is independent in its operations and functions and deals with its work plan independently of myself. Having said that, I have sought advice on the timing for the completion of the review and I urge them to complete the review as expeditiously as possible so we can get that work done. I am also willing to request the board consider which frameworks are appropriate to use to conduct the review, including both a risk framework and an evidence framework.

Another question from Ms O'Byrne was whether the Government would undertake to review the experience of section 87 referrals to TASCAT. That is dealing with the other section we are amending here. I can say that the Government commits to the monitoring and review of the experience of claimants who make referrals to the new Tasmanian Administrative and Civil Tribunal. The old Workers Rehabilitation Compensation Tribunal is now a stream of TASCAT.

The WorkCover Tasmania board and WorkSafe Tasmania are represented on the TASCAT consultative forum and I will obtain periodic reports on the operation of section 87 through that forum. Based on the evidence provided, the board will consider and advise government whether a more detailed review of the operation of section 87 is required. I will ask the board also to provide me with advice in 12 months' time, particularly on the experience of claimants who may have indicated they are intending to retire and subsequently decide not to retire for financial reasons. That was specifically an issue Ms O'Byrne raised and was concerned with and we can certainly monitor that by requesting that information in approximately 12 months' time.

The remaining question Ms O'Byrne asked was if a worker with an injury is not intending to continue work at their current employer but may continue at another employer, would that satisfy TASCAT? Under a section 87 referral their benefits should continue. One of the objects of the act is to assist workers to return to work after an injury. I am of the view that TASCAT would consider this situation. However, as TASCAT is an independent tribunal, it is a matter for the member who would be hearing that referral. Again, I have asked my department to work with Council on the Ageing Tasmania and TASCAT to ensure there is clear guidance and support available to assist older workers with navigating the TASCAT referral process, because I am fully aware that some may have difficulty with that if they are not computer-literate. That can be an issue still, although I must say it never ceases to amaze me how many people are computer-literate these days and getting on board with that.

Moving to Dr Woodruff's questions, specifically in relation to section 27 dealing with the firefighters, she asked why the additional cancers proposed for inclusion have not been considered for inclusion in schedule 5. I think that was also a question posed by Ms O'Byrne. The process for consideration of additional diseases has commenced. The diseases have been referred to the WorkCover Tasmania board and the board has decided to examine the matter in 2023. The diseases could not be considered during the review of section 27 conducted by the WorkCover Tasmania board because the matter was not raised until the review had been completed and the report tabled in parliament.

The inclusion of the additional cancers was raised on 24 March 2022, at which time consultation on the draft bill had commenced. There is a significant body of work, including actuarial advice and consideration of the evidence, which requires completion before a recommendation can be made to the Government on this request. Given the beneficial nature of the amendment before the parliament today, in my opinion this bill should not be delayed pending the completion of a review of the proposed additional cancers. In other words, we are looking at the issue of increasing the list but we did not want to hold up the passage of this bill.

**Dr Woodruff** - Why is each jurisdiction doing its own assessment of whether those cancers should be included when they have been agreed to at the World Health Organisation level?

**Ms ARCHER** - We are each responsible for our own legislation. In some circumstances, workers compensation acts are different. Some jurisdictions do not even have a no-fault scheme. I think one jurisdiction still doesn't. Anyway, there are different legislations and we maintain our own identity in that respect. I also think we need to ensure that Tasmania maintains its own identity in terms of its legislation, but also in terms of its workforce and any other issues that may be unique to Tasmania in a particular workforce and in a particular

location, and on this occasion I notice the Bushfire Risk Unit, which may also have something to do with it. I will check.

Just adding to my answer, it is not a harmonised matter. It is not requiring harmonisation which we have in some areas, so each jurisdiction is dealing with it in their own way.

**Dr Woodruff** - So it will be somebody or some people who will be assessing the scientific literature about whether those cancers -

**Ms ARCHER** - Our department seeks that, so it will be dealt with in Tasmania.

**Dr Woodruff** - Okay, thanks.

**Ms ARCHER** - I note that minister Ellis covered some really valuable information in relation to firefighter screening and the toxicity issue. There was a question about what screening is provided for firefighters and what is the screening likely to pick up, and are there conversations in Tasmania for the new therapeutic blood donation to assist in removing toxins? I can indicate that the Work Health and Safety Act 2012 requires the person conducting the business or undertaking, to ensure, so far as is reasonably practicable, the health and safety of the worker while they are at work. That is the general principle. The matters raised are the responsibility of the person conducting the business or undertaking, or PCBU. I note that the minister responsible for the Tasmania Fire Service, which is the PCBU, has advised that he will provide a response and did so in the House in relation to those two questions. I think you heard that when you came in. He was addressing those and confirmed that screening was provided.

**Dr Woodruff** - I think he was going to come back.

**Ms ARCHER** - In relation to the other issue he was going to come back and he confirmed that. That being his area, I would prefer that he provides that response. You may wish to write to the minister to confirm that he will respond to you at an appropriate time. Those are the answers to all the questions. As I said before, thank you to departmental staff and the hardworking staff in my office. I commend the bill to the House.

**Bill read the second time.**

**Bill read the third time.**

## **RETAIL LEASES BILL 2022 (No. 30)**

### **Second Reading**

**Continued from 8 September 2022 (page 95).**

**Mr SPEAKER** - Mr Young had the call.

**Mr YOUNG** (Franklin) - I had finished, Mr Speaker.

[12.30 p.m.]

**Ms WHITE** (Lyons - Leader of the Opposition) - Mr Speaker, I rise to make a contribution on the Retail Leases Bill before the parliament. I commend my colleague, shadow minister, Jen Butler, for her contribution and for pointing out a number of significant flaws in the bill after consultation with the Law Society and Property Council of Australia. I have learnt this morning that there are a number of amendments the minister intends to move - 30 in total, amending the Government's own bill.

**Ms Archer** - No, it is not 30. It is half that.

**Ms WHITE** - How many amendments? A significant number of amendments. Maybe it is 30 pages of amendments but, nonetheless, a large volume of amendments being proposed. Dr Woodruff, by interjection, said 31 amendments.

**Dr Woodruff** - That is what I believe I saw.

**Ms WHITE** - Whether it is 30, 31 or half that, it is a large number of amendments to the Government's own bill and an illustration of its failure to put forward properly consulted legislation to this House. Given their lacklustre performance when it comes to their legislative agenda this year, progressing the smallest number of bills the parliament has seen in their entire term of government, since 2014, you would think they would get it right when they finally brought something on for debate.

Our view is that, given the large number of amendments, the obvious lack of consultation that occurred before the bill was tabled, the need for the Government to amend its own bill, that the bill should be withdrawn and redrafted to properly insert those matters as the appropriate clauses in the bill.

To that effect, Mr Speaker, I move -

*Leave out* all words after 'That'

*Insert instead* -

The bill be withdrawn and redrafted for the following reasons -

- (a) as the amendments to the bill are substantial and members of Parliament have not received new briefings from the department or been provided with an opportunity to consult and consider the large number of amendments;

**Ms Archer** - It is what you want. You are going to vote against what you want.

**Ms WHITE** - Mr Speaker, the minister is obviously embarrassed.

**Ms Archer** - No, I am not. I think it is hilarious that you will not vote for what you want.

**Ms WHITE** - She is humiliated by the fact that she brought a bill to this House that was completely inappropriate, had no support from the Law Society or the Property Council, and

needed a significant number of amendments. She has now been forced to do that, has been made to come into this place to amend her own bill and is embarrassed.

I will continue with the motion:

- (b) on 22 August 2022, upon the request of the Property Council and the Law Society, Labor wrote to the Minister for Consumer Affairs requesting the Retail Leases Bill 2022 be withdrawn and retabled due to serious concerns with both the standard of the legislation and the unintended consequences of the Retail Leases Bill 2022.

**Ms Archer** - You do realise that it expires and what you are doing you cannot do.

**Ms WHITE** - What was that? What was the mumbling over there?

**Ms Archer** - The code expires on 1 January.

**Ms WHITE** - You have five days. Maybe you should get your skates on. Maybe you should not have dragged your feet. The member keeps interjecting but the paragraph I just read out said that on 22 August, my colleague, Jen Butler, the shadow minister, wrote to you after speaking to the Property Council and the Law Society, outlining concerns with the bill and asking you to withdraw and redraft it. You did not do anything. It is now 9 November and the minister has come into this place with a swag of amendments she is going to try to move to her own bill, that members of this Chamber have not seen until this morning.

**Mr SPEAKER** - We are not on the debate. You are actually on the motion. If we could get through that first.

**Ms WHITE** - It has taken me a while to get through the motion but it is my contribution, Mr Speaker, and I can interrupt myself, surely, to make the point that the minister has had ample opportunity and ample warning to get this right. We consulted with her about our concerns and she ignored them.

I will go back to the motion:

- (c) the request was declined by the minister on 26 August 2022.
- (d) on 8 September 2022, during the second reading speech, Labor again highlighted problematic contradictions and unintended consequences of the bill in its current form and again asked for the bill to be withdrawn.
- (e) the bill was not brought on again for debate.
- (f) Labor received advice that a large number of changes and amendments to the bill were underway by the department.

- (g) on 9 November 2022, the minister provided over 30 amendments to members of parliament at 9.53 a.m., two hours before the bill was set to be debated.
- (h) one major amendment is to the definition of retail leases itself.
- (i) amendments include three new clauses.
- (j) the Retail Leases Bill must be considered and consulted.
- (k) no clause notes on the large amount of amendments have been provided; and
- (l) no briefing has been offered on the substantial changes to the bill to any members of parliament.

I will speak to this briefly because the shadow minister, I am sure, will want to make her contribution, given the large amount of work she has done, and speak to this amendment I have just put to the House.

I find it insulting that the minister could complain about this. She is obviously humiliated. There was an opportunity for her to listen to the shadow minister when Ms Butler wrote on 22 August, after Ms Butler had consulted with the Property Council and the Law Society - obviously something the Attorney General failed to do. The response from the Government was to ignore that, pretend there was no issue and push ahead. Now we have a situation where a large number of amendments have been tabled this morning, on the same day we are debating this bill. There has been no briefing provided. Obviously, the Government has realised there are significant flaws in the bill they tabled in this place. That is a good thing.

I note that in the other place -

**Mr SPEAKER** - Again, have you completed your amendment?

**Ms WHITE** - I have read the motion, Mr Speaker. I am speaking to that now.

**Mr SPEAKER** - You have completed the motion. Right. We can now enter the debate. I was not sure whether you had to have another break, whether you had more of the motion to read.

**Ms WHITE** - No, Mr Speaker. Rest assured, I am on the debate.

I note that in the other place, they are debating the climate change bill today. Yesterday, there was an amendment to that bill moved by the Government. Members in that place raised concerns that they had no time to be consulted on the Government's motivation for the amendment they were seeking. They adjourned that debate so that members could consider those amendments overnight before proceeding with the debate.

**Ms Archer** - That is what we are here to do. We are here to make law.

**Dr Woodruff** - This is outrageous, trying to normalise this.



**Mr SPEAKER** - Order, the Leader of the Opposition has the call.

**Ms WHITE** - The Attorney-General thinks she is the only person in this place who comes to work. Maybe she is informed on the amendments that she has dropped this morning, without any other member having an opportunity to consult widely on them, or to read them, or to get a briefing from the department. That is not how the parliament works. Executive government might work like that. Maybe you work that way in your Cabinet. Maybe you try to push things through: just bring things to the Cabinet on the day you are going to talk about them. I do not know how the Government operates. They are obviously in chaos when you think about the way they are dealing with this bill right now because this Government surely does not operate the way a good government is intended to operate.

The point I am making is that in the other Chamber, when amendments proposed by the Government to a bill where they want the support of the parliament, they allow time for members to consider those amendments. That is what happened upstairs. I point that out because it is relevant. The other Chamber is treated with far more respect by the Government than this Chamber is treated.

Today, in this debate right now, the fact we are on this bill and another number of amendments moved by the Government is very illustrative of that. It is poor process by the Government, who had every opportunity to come forward with these amendments, to circulate them well ahead of today. They have obviously been working on them, because after Ms Butler raised concerns, wrote to the minister and raised concerns again in the debate, they have been brought to the Government's attention by a number of different interested parties as well.

They knew there were problems with this bill. These amendments could have been circulated well ahead of today if the Government was acting in good faith to progress its legislation. Instead, the minister has just come in here, dumped them on the table and expected everybody to be able to deal with that. I find that incredibly insulting and disrespectful to the members in this Chamber who are here to work, who come here to do their job, but want to do so in an informed way, unlike how the Government operates.

[12.40 p.m.]

**Dr WOODRUFF** (Franklin) - Mr Speaker, I signalled in my second reading contribution that I had listened to Ms Butler's contribution from Labor and heard she had a range of concerns about the bill and noted that the Greens' position was that we would listen very closely to the debate in the Committee stage and take her concerns and deal with them clause by clause.

This morning I saw that there was something from the minister with some amendments, and I was shocked at how long they were - 31 amendments now. The Treasurer sits here like he is a paid scoffer, laughing at the idea that there were 31 amendments. I just re-read it again - 31. I do not know why you are trying to pretend that there is not. There are pages and pages of amendments -

**Ms Archer** - You are opposing what was raised?

**Dr WOODRUFF** - No, hold on. This is not about opposing it. This is about the respect of not giving me, as a legislator, time to read 31 amendments, including leaving out whole clauses; leaving out a whole schedule; changing four definitions in the bill; and adding three new substantial clauses. These 31 amendments make enormous changes to the bill, so much

so that I feel that the second reading contribution I made to this bill on behalf of the Greens was not the same bill. I do not get a chance to make a second reading contribution now because I have already done that, but it is essentially a different bill.

I get that the minister did not do the consultation she needed to do on the bill in the first place. I understand that she has listened. That is excellent, but this is a different bill. That is why we will be supporting Labor's amendment to withdraw and redraft it. If the Government, the minister, had paid respect to me and the Greens and given us until the next sitting week to consider the amendments I might have had a very different view because I might have understood that what she is trying to do, in essentially a bit of a cack-handed way, is actually fine, but I do not know.

I am not going to be able to read 31 amendments and come to a considered response on what is an important and significant bill. It is about retail leases. With these things it is important to attend to the detail. Anyone who has watched any B-grade American sitcom knows that you read the details when someone puts a piece of paper in front of you about your lease. It is very important, so I do not buy this. It is utterly disrespectful, not only for us as legislators but to all the stakeholders who made the points in the first place, for us to be able to understand whether the minister's responses, allegedly to their concerns, have been properly met. I do not have time to make that assessment.

As a member of the Greens, I do not have time to do that. The minister can try to justify this any way she wants but it is actually outrageous -

**Ms Archer** - Do you want us to be without a code on 1 January?

**Mr SPEAKER** - Order.

**Dr WOODRUFF** - No, it is your fault, minister, that the time frame is not working -

**Ms Archer** - We have been working on it.

**Dr WOODRUFF** - If you know the stakeholders are happy, why did we not get to see the drafts? Why did we not see the exposure draft to these amendments? Have we seen it this morning? Why did we not see it whenever the stakeholders saw it? This is an absolute addiction to secrecy, even on matters of trying to fix up legislation. It is completely nuts. It is a pointless exercise because we are going to waste time arguing about the process when we should be able to attend to the details of the legislation.

We support that the bill be withdrawn and redrafted.

[12.45 p.m.]

**Dr BROAD** (Braddon) - Mr Speaker, this is not the way for legislation to proceed. We know that the Attorney-General can technically do what she is proposing but this is not good practice and she knows that. How is this good practice for the first law officer of this state to gut her own bill, give 30-odd amendments with hardly any notice at all, and pretend that everything is fine and push on regardless, despite repeated warnings that the bill was flawed?

There were repeated warnings, including receiving communication from the Property Council and the Law Society, receiving communications from my colleague, Ms Butler, and

discussions about the flaws in the bill. Yet, instead of withdrawing the bill and redrafting it, we have a minister who is pushing on regardless. How is this proper process?

The minister's second reading speech will bear very little relevance, given that there are 30-odd amendments, including changing the definition of 'retail leases' itself. How is that appropriate? We do not have to be pigheaded about this. It can be brought on in the next sitting so that people not only have time to consider this raft of amendments but also -

**Ms Archer** - The next sitting will be next year - too late.

**Dr BROAD** - Parliament is sitting again in a couple of weeks; bring it on, redo it.

**Ms Archer** - The other place has to approve it. We have a House of review. You have forgotten about the Legislative Council.

**Mr SPEAKER** - Order, Attorney-General.

**Dr BROAD** - There is still time. This is not a way to run a government. How is your second reading speech going to be relevant, given that you are proposing 31 amendments to your own bill? It is horrendous. What is really bad about this is that the Attorney-General was told. This was explained to her numerous times. Instead of listening, she pushed on regardless. This is not proper process and that is why this motion should be supported.

This is looking like an entirely different bill. This is not the way for any government to be legislating and pushing on regardless. It should be done properly. The bill should be reintroduced and there should be a new second reading speech with all these 31 amendments in the new bill. That way we can do things properly instead of trying to make it up as you go, completely ignore advice, and completely ignore requests from significant stakeholders like the Property Council and the Law Society and push on regardless.

This is not proper process and the minister should agree to this motion instead of throwing all process out the window.

[12.48 p.m.]

**Ms BUTLER** (Lyons) - Mr Speaker, this motion is important because it sets a terrible precedent for our parliament. The Retail Leases Bill is quite important. The Retail Leases Bill underpins the whole Tasmanian economy and to not be able to provide a proper briefing on the amendments, or provide us with clause notes on the huge number of amendments is not good enough. They are not small amendments either; they are quite large amendments.

I put a lot of effort into my second reading contribution. I really dug deep into this bill. The member for Franklin, Dr Woodruff, said she was not quite sure whether her second reading contribution on the original bill, without this huge plethora of amendments, is relevant anymore. I also do not know whether the second reading contribution I provided is relevant now either.

We were sent amendments at 9.53 a.m. today, and then came into question time at 10 a.m. Some of those amendments include really large clauses inserted into that bill. We do not know what the unintended consequences of those clauses would be. We would like to be able to

consult, because if not for consultation, we would not have been able to pick up the faults with your existing bill.

Let us go back to the fundamental base of the problem here. It was a terrible bill. It was uncommercial, and it had unintended consequences. We spoke to the Law Society and the Property Council and they asked us to write to the minister and ask that the bill be withdrawn and redrafted because it was so faulty.

We are pleased that the minister listened but the minister listened right at the last moment. I wrote to the minister on 26 August, and I am going to read it into the record, because it is really important. If the Government does not support this motion, they are setting a very nasty precedent for legislation in this House. What it means is you can change the complete intent, the complete strategy, the complete policy of a piece of legislation with two hours' notice and give members of parliament no opportunity to consult with stakeholders.

We have not spoken to the Tasmanian Small Business Council about this. We have not spoken to people who represent supermarkets about this. We have only spoken very briefly for about five minutes this morning to the Property Council - because that is all we had time to do. It is completely unprofessional and it is very sloppy.

On 26 August, I wrote to the minister, after I had been requested to write to the minister. We did not do anything public with this. We tried to be professional. We did not politicise this bill, and we could have politicised this bill, Mr Speaker.

**Ms Archer** - You are doing it now.

**Ms BUTLER** - We certainly did not politicise it, because we wanted the bill fixed. We could see that if this bill went through without these amendments, it would have caused huge problems for people with retail leases or commercial leases - and then it also would have caused huge problems to the economy of Tasmania. It was really important to get this right.

On 22 August I wrote:

**Request for withdrawal of the Retail Leases Bill 2022 for redrafting**

Dear Minister,

I write in relation to the Retail Leases Bill 2022 currently tabled in the House of Assembly. We have serious concerns with the standard and legal implications of the Retail Leases Bill 2022. The Property Council of Tasmania and the Law Society of Tasmania support our concerns.

I am advised both the Property Council and the Law Society have directly contacted you and raised these concerns. I would formally request the bill be withdrawn and redrafted as it contains uncommercial content which will trigger unexpected consequences.

It could not be much clearer than that.

Whilst we currently withhold our comments on the policy direction of the Retail Leases Bill 2022, we do recognise the need for legislation that actually works. The implications of allowing the bill, in its current form, to progress through parliament would be detrimental to the Tasmanian economy and undermine our current standard of legislation.

I look forward to your response.

Jen Butler.

Mr Speaker, on 26 August, I received a response from the minister:

Dear Ms Butler,

Thank you for your correspondence in relation to the Retail Leases Bill 2022, which I tabled in the House of Assembly on 31 May 2022. Unfortunately, I am not able to adequately address the concerns you have raised regarding uncommercial content given the lack of specificity.

I have engaged extensively with stakeholders, as I do with all my law reform, and I am confident the bill will provide certainty and fairness of retail premises leasing arrangements between landlords and tenants.

I will not be withdrawing the bill and invite you to raise your concerns when the bill is debated in the House.

Thank you for raising this matter with me personally.

Yours sincerely,

The Honourable Elise Archer MP  
Attorney-General  
Minister for Workplace Safety and Consumer Affairs

We came to the House and had the debate in the House. I raised all these concerns again.

Then today we received, at 9:53 a.m., over 30 amendments - huge changes to the bill. I do not understand whether it was belligerence or lack of understanding of how bad the bill was in the first place, but, minister, as the first law officer, I like to think that if you were debating this bill and we had pulled this on you, you would be up in arms. You would not think it was professional. You would think it was unparliamentary. You would not think it was good enough. I do not understand why - and I really hope you do support this motion.

[12.55 p.m.]

**Ms JOHNSTON** (Clark) - Mr Speaker, I rise to support the motion. When I approach bills in this parliament, I do so with great care and consideration. I like to listen to a range of stakeholders to understand the text of the bill. I also really appreciate the briefings departments give me, and I recognise that the ministers' offices facilitate those. This was the case with this particular bill. I received a briefing some time ago and I really did appreciate the opportunity to question and ask about the bill.

I listened to the second reading contributions and the debate some weeks, months ago now. I listened to the concerns - particularly of Ms Butler, member for Lyons - about the content of the bill.

What concerns me, Mr Speaker, is that what I find this morning in my inbox, seven minutes before question time, are a significant number of amendments to the bill, which dramatically change the content and meaning of the bill, and my understanding of what the bill is all about. I would like to have the opportunity to read through those amendments in great detail - to be able to question officers about those amendments and what the effect will be, and to be able to come into this parliament to contribute meaningfully to a debate about a bill that will have a significant impact.

By being given those amendments approximately two hours before we are due to debate them, I have been declined this opportunity to give it consideration.

When I approach bills, I like to be able to support the Government wherever possible to make sure we get good laws passed for the Tasmanian community - but it does require some diligence on my part, and for all the members here, to read through, to question, and to give proper consideration to what we are debating.

What happened this morning is nothing but poor governance. It does not give us the opportunity to do our jobs properly, as the community would expect. They would expect us to be informed, to have given proper consideration to the matters that we are debating in this House.

What we would be debating, if these amendments were to proceed, is a significant change to the original bill.

We have already heard from those who contributed on the motion about the changes that have been lobbied by the Law Society and the Property Council. I acknowledge that the minister appears to have listened to those concerns, and I would like to be able to support those amendments, but I would like to be able to do so from a position of understanding what they mean in the context of the bill.

I do not have that opportunity, because of the short time frame that has been provided to me. It is not good enough that during question time - when all members are, appropriately, focused on what is happening in the Chamber and in the MPI time - I am trying to go through significant changes to a bill and understand what they might mean for my constituents.

I hope the Attorney-General can understand the goodwill of everyone else in this place to come forward and be constructive in trying to ensure we get bills passed that are the best possible bills for Tasmanians.

All we are seeking to do here, with this motion, is to say we want to work collaboratively to make sure we get the best outcome with this particular bill. We want to understand it and do it in a collaborative way.

I hope the Attorney-General can act in good faith and support this particular motion, because I think it sets the tone of respect for the role that each and every one of us plays.

I understand that the Government might think it can rubber-stamp bills through - and of course, with the numbers, they can - but that is not the tone of respect that I think the Tasmanian community expect from members of this place. I think they expect members to contribute, to debate, to be able to bring forward ideas and suggestions and amendments, and have those properly considered.

I hope the Attorney-General can support this, because this is not about politics. This is about good governance.

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

## **WAIVER OF GOVERNMENT PRIVATE MEMBERS' BUSINESS**

**Mrs ALEXANDER** (Bass) - Mr Speaker, in accordance with standing order 42(d), I indicate that Government private members' business is waived for this day's sitting.

## **RETAIL LEASES BILL 2022 (No. 30)**

### **Second Reading**

**Resumed from above.**

[2.30 p.m.]

**Ms JOHNSTON** (Clark) - Mr Speaker, before the lunchtime adjournment, I was finishing my contribution on the motion moved to have the bill withdrawn. I was indicating to the Chamber my sincere hope that the Attorney-General acts in good faith in regard to everyone's intention to want to contribute to this bill and to make sure that they have adequate time to consider the amendments put forward.

I have used the lunchtime adjournment to go through those amendments. They are significant, they are considerable, including significant changes to definitions, the inclusions of new bills, and the suggestion to even leave out a clause. I indicated before that I believe the Attorney-General has listened to some stakeholders. However, it is important that we do not rush these important amendments and have time to consider and to get an adequate briefing on them so we can make a reasoned and substantial contribution to this bill.

I hope the Attorney-General does not play politics with this and sees that is an act in good faith. We want to be able to put bills through this parliament that are the best bills possible. At the very least, give us time to have adequate briefings on the significant amendments that she has indicated this morning.

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### **Recognition of Visitors**

**Mr SPEAKER** - Honourable members, I welcome the grade 6 students from Scotch Oakburn College. Welcome.

**Members** - Hear, hear.

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[2.32 p.m.]

**Ms ARCHER** (Clark - Minister for Workplace Safety and Consumer Affairs) - Mr Speaker, I have listened to members. Many times in this place I have been asked to be brave and move amendments to my own bills, and I have. It is a pity Dr Woodruff is not here because she knows that in the five years or so that I have been the Attorney-General and minister in various portfolios, I have been willing to move amendments when they have been required. On this occasion, I will explain why this is necessary.

Do I want to be making so many amendments to my own Government bill? No, but it is essential in these circumstances that we do so, and that we do not miss out on a time period that is looming in relation to the current code.

I appreciate that members are trying to whip up some argument that these amendments are substantial. In number they may be, but in content they are not. They directly respond to matters that Ms Butler raised in her second reading speech so she is very familiar with the subject matter. They are exactly the types of things being proposed by the Law Society and the Property Council. When I heard that further consultation was necessary, I instructed my department to do that and they came back with these suggestions. As I said, it does not please me to be making amendments but what I am doing is responding to the request.

In relation to the timing, the current instrument that regulates retail leases, the Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998, is due to be repealed on 1 January 2023. Without passage of this Retail Leases Bill this year, there will be no retail lease laws in Tasmania from 1 January 2023, resulting in considerable uncertainty for Tasmanian businesses, including both landlords and tenants.

In consultation with both the Law Society of Tasmania and the Property Council, I have decided that the best outcome would be for the code's operation to be extended for an interim period, which would occur through the passage of this bill. This would ensure that Tasmanian businesses are provided with certainty in respect of their retail leasing arrangements. Delaying this bill would only result in significant uncertainty and costs for businesses, including both landlords and tenants, which is especially concerning in respect to small business owners in Tasmania because we know the amount of small businesses that exist in Tasmania.

Regarding the assertions that the second reading speech is now outdated and changed, this bill is relatively long and detailed. The amendments, in this context, do not dramatically change the intent behind or the content of this bill, as has been suggested. It certainly does not change the second reading speech to the extent that members have been saying. I have heard from members today that a new second reading speech is necessary due to the amendments. That is certainly not the case. The amendments do not materially change the policy approach or the intent of the bill, that being to modernise Tasmania's retail leases legislation and to facilitate certainty and fairness of retail premises lease arrangements between landlords and tenants.

The changes predominantly relate to clarifying the bill's scope, through the definition of 'retail premises'; the transitional arrangements, including the continued operation of the existing code for a period; and the outgoings provisions. These are all things Ms Butler specifically raised, particularly in relation to the definition and the outgoing provisions. The second reading speech remains as relevant today as it did when I read it out in the last session, the last actual week of parliament. With the exception of the removal of a five-year transitional arrangement,



which is exactly what the Opposition spokesperson advocated for during the debate, which I am doing, all the content is still accurate and reflects the policy intent behind this bill.

These amendments address the issues raised by the Opposition during the debate. I am finding their argument contradictory because, on the one hand, members have acknowledged that I have listened to stakeholders but they do not want to deal with these amendments today -

**Dr Woodruff** - We do not know what is in them. We have not had time. That is the only thing.

**Ms ARCHER** - I have explained the timing of this to the House. These amendments are necessary, otherwise I would not be doing it.

**Dr Woodruff** - Sure, but why did you not give us a draft yesterday?

**Mr DEPUTY SPEAKER** - Order.

**Ms ARCHER** - Mr Deputy Speaker, I have been in this House since 2010. I only state that because I have witnessed a lot of bills going through. I had four years of opposition. The government would never have moved its own amendments because they never admitted any faults. I actually think this is a good thing we are -

**Mr Winter** - So, you are admitting fault?

**Ms ARCHER** - listening to stakeholders.

**Mr Winter** - Are you admitting fault?

**Mr DEPUTY SPEAKER** - Order.

**Ms ARCHER** - I have just said that we have listened to stakeholders and that is the reason for amending the bill. I have admitted that it needs amending according to the stakeholders' input and there is nothing wrong with that. Dr Woodruff knows that I am, as a minister, prepared to amend my own bills. I have done it before. I appreciate that this is to the greatest extent I have ever done it. I have said I would not be doing this if it was not necessary. I have gone to stakeholders and stakeholders have been consulted on this.

I will go back to what I was trying to say, Mr Deputy Speaker, and that was that in this place, when I was in opposition, we did not even get given the notice. We would be handed each clause, clause by clause, which can be done in this place. You can put each amendment and it gets passed around on the floor. That is what used to happen to us. We never got advance notice of anything like that. I am just making the comparison that as soon as I was physically able to disseminate those amendments I did; they have been worked on. I did give advance notice and I know that it was on the morning of, but the reason I listed the Workers Rehabilitation and Compensation Amendment Bill was that I was prepared to talk that out to give members time over the lunch break to have a look at the amendments. If you compare what Ms Butler said and look at the amendments, it is exactly what the Opposition asked for.

**Mr Winter** - How could we have possibly consumed all 31 amendments in this amount of time?

**Ms ARCHER** - Exactly what the Opposition asked for.

**Mr Winter** - We have to trust you, do we?

**Mr DEPUTY SPEAKER** - Order, Mr Winter.

**Ms Butler** - What about the Greens and the Independent members?

**Mr DEPUTY SPEAKER** - Order, Ms Butler.

**Ms ARCHER** - I am not going to accept their argument. Ms Johnston said that she hopes I am not being political. The Opposition is being political and playing games with this. Let us get on with it. You know these amendments address your issues. I have explained the time sensitivities of this, so let us get on with it so that we can deal with this today. We are sitting past 6 o'clock and we will be dealing with this.

**Ms Butler** - Debating a bill that no-one has been advised on.

**Mr DEPUTY SPEAKER** - Order.

**Ms ARCHER** - The Government does not support the motion that has been moved by the Opposition.

**Mr DEPUTY SPEAKER** - The question is that the motion be agreed to.

**The House divided -**

**AYES 10**

Dr Broad  
Ms Butler  
Ms Dow  
Ms Finlay  
Ms Haddad  
Ms Johnston  
Ms O'Connor  
Ms White  
Mr Winter (Teller)  
Dr Woodruff

**NOES 11**

Mrs Alexander  
Ms Archer  
Mr Barnett  
Mr Ellis  
Mr Ferguson  
Mr Jaensch  
Ms Ogilvie  
Mr Rockliff  
Mr Shelton  
Mr Wood  
Mr Young (Teller)

**PAIR**

Ms O'Byrne

Mr Street

**Motion negatived.**

[2.47 p.m.]

**Ms ARCHER** (Clark - Minister for Workplace Safety and Consumer Affairs) - Mr Deputy Speaker, I would like to sum up because there are many questions that were put,

particularly by Ms Butler. I will press ahead because I know it will take some time and I only have 40 minutes. Hopefully I can get through it.

I thank all members who have contributed to the debate on this bill. I say that authentically because, as we can see, what has come out of that debate is my further consultation with stakeholders on issues that have been raised. I will now take the opportunity to address the issues that have been raised and respond to questions from members. That will explain many of the amendments as I go through, which will hopefully minimise the debate and make sure we can get through this bill in a timely fashion. I hope members will understand the reasoning for the amendments. Much of it will be explained as I go through in response to the questions. Then we will move into Committee and I will move those amendments.

Ms Butler had numerous questions that I will now attempt to address. Sometimes it is not easy to follow because questions turn into statements so what we have done with the beauty of time is capture that from the *Hansard*. Ms Butler requested that I withdraw the bill and went so far as to suggest that I look at redrafting it due to supposed uncommercial content. Clearly from what we have heard already, I will not be withdrawing the bill for reasons I have already outlined during the previous debate on that amendment that Labor attempted to put because of the time issues.

This bill will provide contemporary regulation and retail leases in this state and it is the culmination of extensive consultation with stakeholders through the release of a discussion paper in 2019 and consultation on the draft bill in May 2022. It is interesting that Ms Johnston, who is not in the House to hear this debate, said that there has been very little consultation on this bill. That could not be further from the truth. There has been a number of times that we have consulted.

The issue of retail leases is not a simple matter to get to this point. I deviate and thank my department for the enormous amount of work they have done and particularly in Consumer Building and Occupational Services.

This is not an easy subject matter, hence the reason the Law Society is involved as well as stakeholders who are impacted by the bill itself. That is why we put out a discussion paper. That is why we had consultation on the draft bill earlier this year. When numerous other issues came to light, we instructed the department to do further work that has culminated in the amendments that we see today.

The bill ensures that the rights and responsibilities of both landlords and tenants are suitably balanced; that is a critical feature of this bill. Where appropriate, the bill also aligns with the existing provisions in the Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998, which I will refer to hereon as 'the code'. It all broadly aligns with contemporary retail leases legislation in other Australian jurisdictions.

Again, I thank the department. It has been a lot of work, comparing what other Australian jurisdictions have, and we have had the involvement of other stakeholders throughout that discussion paper process - across the country - who have interest in this. There are larger landlords who are multinationals, often based in New South Wales, Victoria, Tasmania, and down the eastern seaboard. That has culminated in a lot of consultation.

I can, however, indicate that, following the further consultation at my request between my department and key stakeholders - including the Property Council and Law Society - I intend to move the amendments in Committee. I believe these amendments have addressed many of the remaining stakeholder issues. It is important to ensure we have stakeholder support, which is why I was prepared to do this further consultation and to meet the time frame.

The next question from Ms Butler appeared to suggest that she considered there were unrealistic narrow time frames for the Law Society's working group to provide feedback. Obviously, I do not agree with that assertion. I believe there has been an appropriate level of time for meaningful consultation on the bill with a range of stakeholders. My department has worked very hard to engage with parties who have an interest in this bill.

Following the consultation process in 2019 - then of course we had COVID-19, which explains the delay in that period - a draft consultation bill was published on 2 April 2022. Obviously COVID-19 again intervened but as soon as that work and extensive consultation could be completed, that was when the draft bill was published.

At that time, submissions were invited from interested parties until the end of that month. The department received a written submission from the Law Society on 4 May this year, comprising a marked-up copy of the consultation draft bill with comments, questions and proposed redrafting inserted. I understand my department then met with the Law Society on 18 May to discuss the key feedback on the bill.

As you would expect, similar meetings also occurred around this time with other key stakeholders, such as the Property Council and the Shopping Centre Council of Australia. Following detailed consideration of the written submissions received and views presented by stakeholders in these meetings, a range of changes were made to the bill, including changes directly in response to the Law Society's feedback.

For example, the Law Society expressed concern regarding a number of requirements in relation to the landlord's disclosure statement provisions. In response, a range of adjustments were made to accommodate instances where the information required is not available, or not practicably able to be given. In addition, the bill was amended to insert a materiality threshold so that the landlord would only breach the law if the statement is materially incomplete, or the information is materially false or misleading.

At this time, the Law Society also advocated for the draft bill to not provide a maximum amount of security deposit that can be sought. In response, the bill no longer sets a maximum amount of security deposit.

The Law Society also considered that the draft bill would have allowed tenants to delay taking possession of retail premises to avoid paying rent or other costs. In response, changes were made at that time to the bill to provide that the commencement of rent payable is a matter to be specified within the lease.

My department and my office have continued to have constructive discussions with key stakeholders such as the Law Society since the bill's introduction, as I have said. I again thank them for that continued work, and for the amendments that I will move today.

Ms Butler thirdly also suggested that the definition of retail leases is too broad and asked how well consistency of business hubs was provided for. Ms Butler asserted that the broad definition of retail premises in the bill will cover almost all tenancies in Tasmania. This is despite the fact that our principles-based approach is used in the majority of other jurisdictions, including by Victoria - which, I should add, is often related to Tasmania, with multinational companies quite often being placed in Victoria and Tasmania.

Having said that, I have listened carefully to the views presented by stakeholders, that the principles-based definition in the bill as to what is a retail premises - with the regulations providing specific instances of what is or is not a retail premises - is too uncertain. Based on this feedback, I intend to table an amendment later today that proposes to largely reinstate the approach taken in the existing code.

**Ms Butler** - Good.

**Ms ARCHER** - This will mean that a retail premises will be a premises - other than an excluded premises - that is used, or is proposed to be used, either highly or predominantly for the carrying-on of any one or more of the businesses prescribed, or for the carrying-on of any business in a retail shopping centre.

This drafting closely follows the legislative approach taken in New South Wales. Importantly, to provide for flexibility, it will be in regulations where specific businesses in scope are listed, rather than in the primary legislation itself.

Extensive stakeholder consultation will take place on draft regulations, which will specify which businesses are within the scope of the new laws. This will take place early in the new year.

**Ms Butler** - That would be through regulation, minister?

**Ms ARCHER** - That is through regulation, yes.

**Ms Butler** - Excellent.

**Ms ARCHER** - Ms Butler also queried how there would be consistency across different types of businesses under a principles-based definition. Under the list approach to now be taken, as opposed to a principles-based approach, there will be consistency across different types of businesses, because types of businesses will be specifically listed in the regulations.

This also resolves the question from the member for Lyons on how body corporates with external arrangements, or a subsidiary of such a body corporate, is captured in the bill.

Ms Butler also raised questions around commercial tenancy arrangements having to be placed retrospectively under retail leases - the renegotiation of which may not be cheap. She also suggested that clause 8 means landlords and tenants will abide by different sets of rules part of the way through a lease, other than those they had actually entered into at the beginning of their lease.

Ms Butler also asked for an explanation about some of the safeguards that have been put into this bill to protect landlords and tenants in a system where there would be a five-year

period of a two-retail-lease system in Tasmania. Therefore, I have heard from Ms Butler that under the bill, commercial tenancy arrangements will have to be phased retrospectively under retail leases. I note Ms Butler also thought that landlords and tenants will have to abide by different sets of rules part of the way through a lease.

I do not agree with the assessment that this bill was ever meant to be retrospective. I do not agree with the assertion that there was going to be two sets of rules. The intent is to provide a generous five-year transitional period. This meant that existing leases did not come within the scope of the new laws until five years after the bills' commencement, unless they were renewed at some point prior.

However, having listened carefully to key stakeholders, I will move a further amendment today to remove the five-year transitional period. This will simply mean that the new laws within the bill will not apply to any retail lease that has been entered into before the commencement of the new law. Instead, the existing code will continue to apply. Again, this change has come about from the constructive discussions both my office and the department have had with the Law Society and Property Council.

I trust this means that the concerns expressed by the Opposition during debate about the need for safeguards to protect landlords and tenants across the five-year period are now no longer relevant. I appreciate that the stakeholders will also need time to adjust and implement the new laws.

The changes I will move today will have the effect of continuing the existing code until such time that other parts of the bill are proclaimed and come into effect. This will provide stakeholders with continuity and certainty as to legal arrangements, whilst the associated regulations are being developed to complement the new law under the bill to which I referred earlier.

Ms Butler also asked about the costs associated with renegotiating a lease and who is responsible for any modifications or changes required to include specifications under a retail lease as opposed to a commercial lease, and who is responsible for legal fees in these negotiations. As there will no longer be a five-year transitional period and a list approach will now be taken to define what businesses are within scope, this should no longer be a concern held by Ms Butler. However, I would like to point out that nothing in the bill compels parties to renegotiate a new lease. The bill's provisions will simply prevail to the extent that there is any inconsistency with a lease.

The bill also clearly states that a tenant is not liable to pay an amount to the landlord for expenses incurred by the landlord in connection with the preparation of a retail lease. Further, each party to a proposed retail lease is liable for their own costs incurred in connection with the preparation of the lease, as is always the case in these matters. This is like the existing arrangements under the current code. However, a landlord may charge the tenant the cost of any alterations that the tenant has required or requested to be made to the retail lease. Again, this is like the existing arrangements under the code. I believe this approach is balanced, fair and reasonable and also in line with contract law.

Ms Butler also asked a number of questions including:

- where do corporations fit in?

- do you intend to introduce regulations to specify corporations' exclusion in retail leases, because it does not allude to the crossover of commercial leases?
- is there anything in the bill which stops it from applying to leases in which the tenant is a listed corporation?
- do these organisations have to transition from a commercial list to a retail lease and what length of time do they get?
- what about companies listed on the Australian Stock Exchange?

I am well aware of stakeholder views that an exclusion should be provided where tenants are body corporates whose securities are listed on the ASX or another stock exchange. This was also a point raised by the Opposition. However, it is important to first point out that listed companies can already be captured by our retail leases law today. For instance, Telstra is listed on the ASX and Telstra owns and operates many of its stores. These stores would be in the scope of the current retail leases code by virtue of it being a phone shop and an electrical equipment and supply shop; they are two categories.

Many other Australian jurisdictions do not provide such an exclusion. In any event, regulations can be made to exclude certain types of premises where appropriate. As I said earlier, the Government will consult on draft regulations in the new year.

Ms Butler also asked how the definition allows for the situation where a tenant may own a small retail outlet on the same premises as a residential property, and will size of area be included under retail in this bill? As was always the case under the bill, the regulations can also exclude specific types of premises or arrangements from the application of the new laws.

Ms Butler had a number of further questions about particular scenarios and whether such scenarios would be captured by the bill: for example, a small retail outlet on the same premises as a residential property as well as the application of the law to not-for-profits. Presumably these scenarios will be of much less concern, because under the amendments I will move, the principles-based approach taken to define 'retail premises' in clause 6 of the bill will be removed. Instead, there will now be an explicit list of business types in the regulations which will provide what types of business are within the scope of the laws.

In addition, and as I mentioned earlier, there has always been a clause in the bill for regulations to exclude certain types of premises, businesses or leases from the application of the bill. Consistent with usual practice, regulations will be consulted upon and will include exclusions for certain scenarios where it may be otherwise unclear as to whether they are captured by the list of businesses in the scope of this bill.

Ms Butler also queried if automatic teller machine or ATM infrastructure within a building comes under a retail tenancy agreement. I know Ms Butler posed a number of particular scenarios and queried whether they would be captured by the bill. Examples concerned ATM infrastructure within a building, market stalls, beekeeping activities and children's ride machines. Importantly, to provide for flexibility, it will be in regulations where specific businesses in the scope are listed, rather than in the primary legislation itself, as I have been saying. Extensive stakeholder consultation will take place on draft regulations, which

will specify which businesses are within the scope of the new laws, which will take place early in the new year.

I answered earlier how there would be consistency across different types of businesses under a principles-based definition, so under the list approach to now be taken, there will be consistency across different types of businesses, because types of businesses will be specifically listed in the regulations.

Ms Butler asked about whether the broad definition will also include not-for-profits under the umbrella of the retail lease, as they provide a service for not-for-profit groups and will be subject to the limitations brought about by the - and I quote - 'confusing' Retail Leases Bill. As I have mentioned before, scenarios like this will be of much less concern, because under the amendments I will move later, the principles-based approach taken to define retail premises in clause 6 of the bill will be removed, and I reiterate there will now be an explicit list of business types in the regulations.

Ms Butler suggested there were contradictory marketing promotions costs in the bill. The outgoings provisions are another area of the bill the member for Lyons raised during the debate. Ms Butler indicated that these provisions would result in unintended consequences and also that the provision specifying that an outgoing cannot be any contribution by a landlord to promotion and advertising was contradictory with a clause later in the bill.

Outgoings are costs payable by the landlord relating to the premises that are often passed on to the tenant through the retail lease arrangement. The bill sets out fair arrangements in relation to the treatment of outgoings for parties. Tenants are not liable to pay the landlord's outgoings unless the landlord's disclosure statement provides detail of their nature and an estimate or basis upon which they will be calculated. The bill also provides that certain outgoing expenses are not recoverable from the tenant, including but not limited to depreciation of the premises and contributions to a sinking fund.

Again, my office and the department has continued to work with stakeholders on this bill. Through this continued engagement, our Government has identified some changes could be made to the outgoings provisions in the bill to improve its operation. The amendments to the outgoings provisions will better reflect current practices occurring between landlords and tenants and provide greater flexibility in relation to how outgoings are presently treated between landlords and tenants. Under the changes, details of the nature of outgoings that are to be regarded as recoverable from the tenant will now be specified by the landlord only in the landlord's disclosure statement, rather than also in the retail lease.

As I indicated earlier, stakeholders remain uncertain about the interaction of clause 35(4)(d), which indicates that an outgoing cannot be any contribution by a landlord to promotion and advertising, with clause 64. Clause 64 allows for a landlord of a shopping centre to seek a specific payment from tenants for advertising and promotional marketing costs on all retail premises within the centre. To address this confusion, the amendments to be moved today will remove clause 35(4)(d) so that any contribution by a landlord to promotion and advertising can now be an outgoing for which the tenant can be liable. This removes any apparent contradiction with clause 64.

Other amendments relating to outgoings involve removing certain time periods to provide greater flexibility to parties to a retail lease. In addition, a new clause is to be inserted



by the amendments to provide for arrangements regarding the adjustment of contributions to outgoings. If an auditor finds that estimated outgoings were not actually expended by the landlord during a period, there is to be an adjustment to take account of any underpayment or overpayment by the tenant. I trust that these changes will address the member's concerns about the outgoings provisions being unworkable and confusing, as she put it.

Ms Butler questioned the expense and necessity to get a re-evaluation if a tenant and landlord disagree and asked why professional valuation is not enough. Ms Butler also queried why the bill includes a market rent second valuation mechanism. I thank the member for this question and for the opportunity to outline the arrangements in the bill concerning market rent valuations. The bill recognises that a retail lease may provide for rent to be calculated or reviewed by current market rent or it may provide an option to renew or extend a lease with the current market rent.

Under clause 42, if a landlord and a tenant do not agree on what the amount of the current market rent is, it is to be determined by valuation carried out by a specialist retail valuer appointed by agreement between the landlord and the tenant or, if there is no agreement, the Director of Consumer Affairs and Fair Trading. A specialist retail valuer then undertakes a valuation of the current market rent and is to provide a valuation in writing including the basis of and reasons for the valuation.

Importantly, the bill makes clear that the landlord and tenant are to pay the costs of the valuation in equal shares. This is considered to be a fair arrangement. In recognising that such valuations are pivotal to the decisions regarding the renewal of the lease, the bill, under clause 43, enables a landlord or a tenant to dispute a market rent valuation within 21 days. On such occasions the party may apply to the Director of Consumer Affairs and Fair Trading for a review of that current market rent valuation.

The New South Wales legislation provides for a similar arrangement at section 32A of that act. It reads:

A party to a lease may apply to the registrar for the appointment of two specialist retail valuers to conduct a review of a determination of the current market rent made by a specialist retail valuer.

The current Tasmanian code also enables a review of a valuation by a valuer appointed by the director if two valuers, one selected by each party, cannot agree on a valuation. Again, under the bill, both parties to a retail lease are to pay equal shares in the costs of a review of a valuation under this clause. These arrangements are all about ensuring that there are mechanisms in place to mitigate and address disputes arising between parties to a retail lease.

Ms Butler also seemed to suggest that the disputes process in the bill does not provide for an outcome. Currently, under the code, parties to a dispute may refer a dispute to a court of competent jurisdiction which is, in practice, the Magistrates Court of Tasmania. However, this is an expensive option, with the likely engagement of a legal practitioner to represent a party in those proceedings. In contrast, the bill offers a voluntary mediation pathway after the parties try to negotiate but have failed to resolve the dispute.

After receiving and accepting a mediation application, the Director of Consumer Affairs and Fair Trading is required to appoint a mediator and arrange a mediation date as soon as

practicable. Mediation often assists in narrowing the issues in a dispute and can act as a catalyst for subsequent settlement. However, if mediation does not resolve a dispute, a party may seek to take the dispute to the prescribed body for hearing and determination. Such a body could be the newly established Tasmanian Civil and Administrative Tribunal.

This process is consistent with the Law Society's preference for a dispute resolution model such as the one in Victoria, whereby parties must submit to an efficient and low-cost mediation before a cost-effective tribunal. The dispute resolution arrangements provided for in this are not just the dedicated sections in part 11, named Dispute Resolution. The bill provides a clarity of process where there is a disagreement between parties in various areas, such as the valuation of a retail premises for calculation of market rent and when tenants should be compensated for damages to retail premises, to name a few examples.

Moving to Dr Woodruff's contribution, she expressed the need for the Residential Tenancy Act to also be modernised and fairer in relation to evictions, rent increases and pets, particularly for residential tenants. I thank the member for her contribution. While I acknowledge those issues are important, that is a different act. It is not the subject of this debate and I do not propose to go into this important area today. However, our Government is also committed to a residential tenancy system that is both fair and meets the needs of residential tenants and landlords. I am looking at the Residential Tenancy Act at the moment, particularly those issues you have named.

In closing, as I have indicated numerous times through my summing-up, my office and department have continued to work with stakeholders such as the Law Society and the Property Council. I again thank them for that work. It has been arduous, as members can appreciate by way of the contribution I have just made. We have identified through this continued engagement with stakeholders that, while a significant number of changes were made to the draft bill in response to stakeholder feedback prior to it being introduced, as particularly proposed by the examples I have given in relation to issues the Law Society raised from the previous consultation, further changes could be made. That is what I have done today.

Members are familiar with the process of getting matters drafted by the Office of Parliamentary Counsel. Instructions can often be given for amendments. In that process, the original number of amendments I expected was around 13. However, in the drafting of the 17 clauses impacted, that has equated to the 31 amendments we have. That has been in the drafting process. It probably sounds a lot more than was originally intended, albeit it is still more than the one or two amendments I originally proposed in the second reading speech. Members will remember that there were two minor technical amendments. They are still there. The drafting process resulted in there being a lot more amendments when you count them.

These changes do not materially change our Government's policy approach and the intent of the bill, as I have said. That is to modernise Tasmania's retail leases legislation and to facilitate the certainty and fairness of retail premises lease arrangements between landlords and tenants. This issue has been kicked along the road for a number of years. I have wanted to get this done and finalised, coming out of COVID-19, so that we have some certainty in this space for landlords and tenants.

The changes predominantly relate to clarifying the bill's scope through the definition of retail premises, as I have said, and the transitional arrangements, including the continued operation of the existing code for a period. I have explained why that is necessary and why it

is necessary that we take the course today and we cannot withdraw the bill and start again. This is a far better way of proceeding. We also deal with the outgoing provisions, as I have identified.

In closing, I will be moving a number of amendments I have explained already so that, hopefully, these can progress through the committee stage with there being more understanding from members about the nature of these amendments.

I commend the bill to the House.

**Bill read the second time.**

## **RETAIL LEASES BILL 2022 (No. 30)**

### **In Committee**

**Clause 1 agreed to.**

**Clause 2 -**  
Commencement

**Ms ARCHER** - Madam Deputy Chair, I move the following amendment -

Page 7

*Leave out* "The provisions of this Act commence on a day or days to be proclaimed."

*Insert instead* the following subsections:

- (1) Except as provided in subsection (2), the provisions of this Act commence on a day or days to be proclaimed.
- (2) This section and Clause C commence on the day on which this Act receives the Royal Assent if the Royal Assent is received on or before 31 December 2022.

This change is made to clause 2 of the bill so that if royal assent is received on or before 31 December 2022, the existing code will continue to apply from that date. Other provisions of the act will commence later on a day or days to be proclaimed. This means the code will continue to apply to new Tasmanian retail leases until other parts of the new law under the bill have commenced. This change has been made in response to stakeholder feedback that landlords and tenants will need more time to adjust to the new arrangements in the bill. This approach will also allow the associated regulations to be publicly consulted upon in the new year.

**Ms BUTLER** - Thank you, minister. The definition around the amendment makes sense. Does that also provide greater certainty for the leases that will still be utilising the existing code? That is my main question.

**Ms ARCHER - Yes.**

**Amendment agreed to.**

**Clause 2 as amended agreed to.**

**Clauses 3 to 5 agreed to.**

**Clause 6 -**  
Interpretation

**Ms ARCHER -** I have four amendments to this clause.

**First Amendment**

Page 8, definition of "accounting period".

I move -

after "the period",

*Leave out* "of 12 months".

**Second Amendment**

Page 12, the definition of "outgoings".

I move -

*Leave out* the definition.

**Third Amendment**

Page 14, definition of "retail premises".

I move -

*Leave out* the definition.

*Insert instead* the following definition:

"retail premises" means premises, other than excluded premises, that are used, or proposed to be used -

- (a) wholly or predominantly for the carrying on of any one or more of the businesses, or class of businesses, prescribed for the purposes of this definition (whether or not that business, or class of businesses, is carried on in a retail shopping centre); or

- (b) for the carrying on of any business in a retail shopping centre.

#### **Fourth Amendment**

Page 16, definition of "specialist retail valuer".

I move -

*Leave out* ", in relation to the valuation of retail premises in a retail shopping centre,".

In relation to the first amendment, the definition of 'accounting period' is amended as such that it does not have to be a period of 12 months. An accounting period will now mean the period specified in the lease as the accounting period. In relation to the second amendment, the definition of 'outgoings' is removed from the act altogether. Outgoings will continue to be dealt with under clauses 35-37 of the act, as well as the new clause A which will follow clause 37.

In relation to the third amendment, the definition of 'retail premises' is removed and a new definition is inserted so that a retail premises is a premises other than an excluded premises that is used, or proposed to be used, either wholly or predominantly for the carrying on of any one or more of the businesses prescribed, or for the carrying on of any business in a retail shopping centre.

This key change has been made in response to stakeholder concern that the broad principles-based definition of 'retail premises' caught too many retail premises and was too uncertain in its application. This new approach will provide for greater clarity and certainty as to the types of business premises the bill will apply to and is the approach taken in New South Wales as well as the existing Tasmanian code.

Finally, in relation to the fourth amendment, the definition of 'specialist retail valuer' has been amended so that it applies more broadly than just in relation to the valuation of retail premises in a retail shopping centre.

**Ms BUTLER** - Can the minister explain, under the definition of 'accounting period', the process of leaving out 'of 12 months' and why it was originally in the bill and what that was meant to capture? Why was it there originally and why has it been taken out? I am curious.

**Ms ARCHER** - I am advised that the period of 12 months appears in a lot of other jurisdictions so that is where that came from. Taking it out, however, provides greater flexibility so now we will have a more flexible definition.

**Ms BUTLER** - They were my main questions on those amendments. I have something in clause 6 that I would like to go through but I am not sure how we want to proceed.

**Ms Archer** - Which amendment do you mean?

**Ms BUTLER** - Your amendments. We were interested in why there was no definition of 'turnover' in the interpretation section. It was stated to us that without the definition of

'turnover' under the code - this was the amount of gross sales derived from the retail premises defined in the lease - the turnover rent provisions lack certainty. They have been expanded in clause 45, meaning turnover rent and turnover does not include provisions. We are asking why 'turnover' has not been defined in the interpretation.

**Dr WOODRUFF** - Excuse me, minister, before you answer that question, Madam Deputy Chair, could you give me some clarification? You are not talking on the amendments, are you?

**Ms Butler** - No.

**Dr WOODRUFF** - You are talking on the rest of the clause? Do we need to deal with the matters that have been amended, or can we talk on any matter?

**Madam DEPUTY CHAIR** - There is nothing further to the amendments, just to clarify.

**Dr WOODRUFF** - I have something on the amendments. So, you can speak on any part of the clause is the answer, is it?

**Ms ARCHER** - Thank you. Without a definition of turnover, the turnover rent provisions obviously lack some certainty.

Clause 45, titled Meaning of *turnover rent*, outlines that, 'For the purposes of any provision of a retail lease that relates to the determination of rent ... by reference to the turnover in relation to the retail premises ...', a number of items should not be treated as turnover.

Parties to a lease arrangement are therefore able to determine what constitutes turnover in relation to the particular retail circumstances involved for a leased premises, as long as it is not inconsistent with this provision.

The bill's provisions are very similar to the Victorian law, section 33, which does not define turnover, but instead specifies the types of items that are not able to be used to calculate this turnover.

Further guidance can be provided in supporting material if necessary when we come to that. By that I mean regulations or guidance materials.

**Progress reported.**

**Debate adjourned.**

## **MOTION**

### **Public Sector Workers Conditions - Motion Negatived**

[3.34 p.m.]

**Ms WHITE** (Lyons - Leader of the Opposition) - Mr Speaker, I move -

That the House -

- (1) Notes that -
  - (a) public sector workers deliver critical services relied on by Tasmanians every day; and
  - (b) inflation in Tasmania is increasing at 8.6%.
- (2) Recognises that public sector workers across Tasmania are taking industrial action as a last resort due to unsustainable working conditions.
- (3) Agrees that -
  - (a) a wage increase that does not increase at the same rate as inflation is a wage cut in real terms;
  - (b) recruitment and retention of public sector workers is critical in being able to deliver public services needed by Tasmanians; and
  - (c) paying a comparably lower wage to other states and territories impacts negatively on recruitment and retention of public sector workers, and in turn, delivery of services in Tasmania.
- (4) Calls on the Premier, Hon Jeremy Rockliff, MP to recognise the real value of public sector workers to Tasmania, and to treat them with the respect they deserve in wage negotiations.

Mr Speaker, I can indicate that a vote is required.

The motion before the House reflects the fact that we have public sector workers taking up industrial action right across the state today. They are doing that because this Government continues to treat them with contempt and ignore their very real claims for fair wages and fair conditions in order for them to continue to deliver the essential services that our entire community depends upon.

I did not see any members of the Government out on the lawns just now. I certainly saw members of the Labor Party, members of the Greens and Independent members from both Chambers out there.

**Mr Ellis** - Telling them you will give them an 8.6 per cent wage rise this year?

**Ms WHITE** - The minister has quipped in. I do not know exactly what he said, but it is extraordinary that the Minister for Police, Fire and Emergency Management has a cheap shot and then leaves the Chamber.

I wanted to share with the parliament that one of the speakers who gave an extraordinary speech today was a firey: one of the very same workers who has been disrespected by the minister who has fled the Chamber. So he should. He should be ashamed of himself and his

behaviour, his appalling treatment of career firefighters, and the pressure they are under just to do their job - and they are doing it without the support of the minister or this Government.

I was proud to stand with public sector workers today, just like I am every day of the week. That is because I understand that we do not have good public, essential services without public sector workers. We need to support them. We rely upon them to teach our children, to make sure we can access health services when we are sick, to make sure that if there is an emergency, and there is a fire, when we call for a fire truck to come, it arrives with well-paid, well-supported firefighters to serve our community, as they do - but not with the support of this Government.

The atmosphere out on Parliament Lawns was incredible. There were thousands of people. In particular, I want to note our teachers and support staff who walked down the streets of Hobart. All up, Mr Speaker, it would have been two blocks where we had teachers, support staff and children joining in that march as they walked to Parliament Lawns to rally together, to call for fair wages and fair conditions, and for respect from this Government.

It was it an impressive sight. Not only did we have teachers streaming down the streets of Hobart today, we also had paramedics in their trucks lined up around the outside of the Parliament Lawns, taking unprecedented industrial action: paramedics choosing not to respond to non-priority calls as a clear statement that they just cannot keep doing this. They cannot. They cannot keep doing the overtime. They cannot put up with the hours ramped at the hospital. They cannot put up with the anxiety and pressure of trying to provide appropriate patient care at a time when the Government simply does not have their back.

Last year paramedics last year spent so much time ramped at our hospitals that it actually cost \$3 million in overtime to pay them to be there on the ramp - \$3 million to pay our ambulance paramedics to be ramped last year. That money would be much better spent properly resourcing our health system, to make sure we can actually provide better patient care and a better work environment for the people who are providing those health services.

I take the opportunity to share with the whole parliament some of the contributions that were made on the lawns today, because I know there were no Government members there. Certainly, none that I saw. How disrespectful is that.

These are the very teachers who educate your children. These are the very nurses who care for you when you are unwell. These are the very people you rely on in an emergency, and you could not even show your face. It was not something that went without noting. Every single person there noted that not a single member of the Government had the guts to show up and explain themselves.

I want to talk about some of the people who did show up, and in particular, some of those who were brave enough to stand in front of that crowd of thousands of people and talk about why they were taking industrial action.

I will start with Marissa, who is a teacher's assistant at South Hobart Primary School. Marissa started her contribution by making the point that she will be earning just \$677 per fortnight, when she is stood down from her work in just a few weeks time. She will be forced onto those government payments because she will be stood down as a teacher's assistant once the holidays commence. She shared with us that she has worked for 13 years as a teacher's



assistant, and that she is running on empty, because she gives every day. She is anxious about how she is going to afford her mortgage payments and continue to care for her two growing children on just \$677 per fortnight for those 12 weeks of the school holidays.

Sadly, what we heard from Marissa is that she cannot do it anymore and this will be her last year as a teacher's assistant. After giving 13 years to our young people she has decided to quit and join the hundreds of others across our teaching workforce and our support staff workforce in our schools who have decided to walk away because they just cannot do it anymore.

I want to share some of the comments Marissa shared with us. She told us that:

As a teacher's assistant, we are skilled, we have backbones, we have become specialised, but we are not valued for what we bring and what we do.

I am afraid to say it is time for me to find another calling because I can't go on like this and lose my house and see my family suffer.

She spoke about the variety of different responsibilities she has in the school and she talked about things such as cleaning up vomit, supporting distressed children, and comforting other teachers who cannot take it anymore. She finished with a very powerful contribution by saying:

My shoes may not be shiny like yours -

When I say 'yours,' she was talking about the Premier at this point.

My shoes may not be shiny like yours, but I am on the ground every day walking with my students. Try walking a day in my dusty shoes.

That was a very common sentiment that was shared across all of the speakers today, as they invited the Premier and members of the Government to spend a day with them, to understand what a day as a teacher's assistant is like, to understand what a day as an AST is like, to understand what a day as a paramedic is like and to understand the pressure they are facing and the reason they are taking industrial action. It is not because they are greedy and want more pay. It is because they want to be safe and do their job in a way that is supported. That is what they deserve.

Public services are delivered by people. It was those people who stood on the lawns today and said they can only keep doing it for so long without the support they require.

One of things that stood out to me this morning when we were asking a number of questions of the Government about why they were failing to negotiate in good faith, why they had said that this was their final offer, why they were threatening not to provide backpay if there was not an agreement reached by 1 December, and why they were not listening to the voices of people like Marissa, the minister for Education interjected and said, 'It is the unions'. Who does he think makes up a union? A union is made up of people: workers collectively coming together because they know if you treat them as individuals, you will divide and conquer them. Unions provide an opportunity for people to come together to collectively put

forward their points, to try to negotiate in a way that is more coordinated so they can lift each other up at the same time.

It is the unions and the unions are made up of the workers, of the teachers, of people like Marissa, of people in our community who just want to be able to make ends meet, who just want to be able to pay their mortgage and feed their kids, who just want to be able to do their job. That was why I was proud to stand with them along with my Labor colleagues today, because I agree that they deserve that. They deserve nothing less and our community should be thankful to them every single day.

The minister, who fled the Chamber after his disrespectful interjection, missed the contribution today of a firey whose name is Robin. Robin gave an impressive speech to the crowds gathered on the lawns today. He started by saying, 'I do not want to be here speaking'. I do not think anyone wanted to be there speaking but they were all brave enough to get up and share their stories because it matters. Robin told us that he hates a liar and he hates a bully. He then pointed to this parliament and said, 'This place is full of them'. Unfortunately, that is how the community reflects on us in here sometimes, particularly when they are being mistreated by a government like this Liberal Government. He went on to say:

The last three years have been hard for all of us, but unlike the Government changing ministers and members it seems almost weekly, we've turned up day after day, doing our job and doing work that's not in our job description.

And they have. Whether it is firies, whether it is nurses, whether it is teachers and particularly those who have been dealing with the impacts of COVID-19 over the last couple of years, they have turned up every single day. The point has now come where some of them have had enough and they cannot keep turning up any longer. Unless and until this Government really works out that the cost to the Tasmanian community and economy is not properly funding essential services, we are going to see more of it. That is the real issue here.

The Government goes on with its rhetoric that we cannot afford it. You cannot afford not to properly pay and properly support public sector workers and to be fair about your negotiations with them. If you do not we will not have a health system. At the moment, the one we have is in crisis. We will not have a Child Safety Service. The one we have is in crisis. People who are trying their best to protect vulnerable children cannot keep up with the workload. If you do not, our children's future is put at risk because they will not get the education they deserve. That will have an impact on our economy if we do not properly support the next generation to get the education they deserve.

If all this Government cares about is the money, they should think about it in the context of that bigger picture and what it means for us as a community, as a society, and for our economy if we fail to invest in our young people and the essential services that our community relies upon.

Robin went on to say that in his profession he is the lowest-paid firefighter in Australia. He spoke about the fact that if he were to accept the pay offer that has been put forward by the Government, he still will be. Then he spoke of the fact that the Government first capped a pay rise. The next step they have taken is bullying public sector workers to accept the pay rise. Now they are threatening the public sector with no backpay. He said:

That's not negotiation, it is intimidation. Every day I work, my chance of cancer doubles. I face higher risks of injuries and mental health issues due to what we face and, despite the rising population in Tasmania, we have had no increase in firefighters.

That is what Robin told us today, and that is not just in the last year. He talked about the period of time that he has been a firefighter, and he joined in 2014. He works in a job that is riskier. That means he has a higher risk of cancer, a higher risk of injuries and mental ill health. He spoke about the fact that he is worried he will end up pushed out before his time, broken and injured, because of those conditions he works in.

He finished by saying: The only thing the Government is interested in is big, shiny football stadiums.

I can tell you that there was a big jeer from the crowd at that point, Mr Speaker. It could not be more unpopular, the warped priorities of this Government. More and more people are feeling disgusted by the way this Government is handling not only public sector negotiations, but also their warped priorities, focusing and obsessing about building a \$750 million football stadium while at the same time telling public sector workers that they cannot afford to pay them, cannot afford to do the right thing by them. They cannot afford to properly resource our hospitals or our schools but they can find the money for a football stadium. Your priorities are all wrong.

We also heard from Freya. Freya is an advanced skills teacher working at Kingston High School. She gave a personal invitation to the Premier, Jeremy Rockliff, to join her in her classroom and spend time with her and her skilled work colleagues to really see how they operate day-to-day. Not just pop in for a pre-organised visit but actually spend a day with them and immerse himself in that environment and truly see what it is like to be an AST at Kingston High School. Freya shared with us:

The first thing I feel when I think about my job is privileged. I feel really lucky to work alongside the colleagues I have. The next thing I feel is anger. Our school system is built on generosity and unpaid labour of school staff.

That was a pretty common sentiment shared by a number of the speakers. They feel they are being taken for granted because they love the job, and the Government knows they love their job and helping people, so they just keep getting ground into the dirt because the Government knows they will show up day after day.

She shared with us that she is seeing more and more educators leave with no-one to replace them. We know that is true from looking at the annual report of the Department of Education. It tells us that last year more than 270 teachers left the Tasmanian school system. That is more than one for every single school and it is 50 per cent more than left any other time that we can see.

**Mr Jaensch** - Are you sure they are all teachers?

**Ms WHITE** - Teachers and support staff. It is still pretty appalling and it is still 50 per cent higher. The minister for Education interjects there. If the only thing he has to say

is, 'Are you sure they are all teachers?', he misses the point I made earlier about the importance of people like Marissa, who is the teacher's assistant who is quitting at the end of this year.

A school is made up of a range of people from library technicians to teachers, support staff, school psychologists, social workers and teacher's assistants. Together, they provide the education framework that our children rely on to get the best start in life. The minister missed the point if he thinks the only concern he needs to have is whether we have more or less teachers.

**Mr Jaensch** - You just keep referring to how many teachers have resigned and I think the figure that you are quoting -

**Mr SPEAKER** - Order.

**Mr Jaensch** - relates to -

**Mr SPEAKER** - Order.

**Mr Jaensch** - a broader range of employees in the Education Department. That is all.

**Ms WHITE** - Mr Speaker, the minister can try to explain it if he wants to but the annual report shows that it is 50 per cent higher than any other time that we can find. That is the worry.

Freya went on to say - and we spoke about this as well this morning - that the peak psychologists' body recommends a ratio of one psychologist per 500 students. In Tasmania it is a ratio of about one for every 800 students. She went on to explain that it is not about the money: 'It is about finding solutions to our work conditions. The conditions we work in are the conditions our kids learn in.' That is a powerful message. It is about conditions. It is about respect, about support, about being able to work in a safe workplace and have the time they need to provide the education for our kids.

We also heard from Corinna, a child safety officer. She shared a number of observations about her role as a child safety officer. She also shared her concern about the rhetoric from the Government versus the actions the Government is taking. Corinna shared this with us:

We support children who have been neglected, sexually and physically abused. Without adequate staffing, we will see a rise in deaths of adolescents and children, and we will see suicides of teens.

She spoke about the fact that there are hundreds of children without a child safety officer being allocated. We also know that because we have raised that in this place. We know that there are hundreds of children who have not been allocated to a child safety officer. The Government knows that. There are children who are falling through the cracks. The people who are trying to piece things together in child safety services are desperate. That is what we heard from Corinna today.

She spoke about the sleepless nights, the endless headaches because they go home not knowing where those children are going to sleep or whether they will be safe. She said they are saturated in trauma content. They need safe workplaces; they need trauma-safe workplaces

to process what they are exposed to on a daily basis. That is what they mean when they say conditions at work; safe workplaces, trauma-informed. It is not just about the pay. It is also about the things they are exposed to and work with every single day, and how the Government can better support them so they can keep showing up for our kids.

Corinna went on to say, 'We stay in this job because we care'. She then reflected on yesterday's apology, saying:

Yesterday the Premier offered an apology to those experiencing child sex abuse in institutional settings. Ten years from now he will be apologising again.

I doubt it will be him who has to apologise. I doubt he will be here in 10 years. The point being made by Corinna is that somebody will need to if we do not address the very real problems that this Government knows about, that we know about in child safety services right now. There are children currently being let down and you know it.

We also heard from others in the Health Services Union. HACSU secretary, Tim Jacobson spoke about some of the vacancies that remain unfilled. He spoke about physio in the south running 30 FTEs down. He spoke about the fact that they cannot recruit radiation therapists to the North West Cancer Centre. We have heard about that. We have raised that again in this place. We have spoken about the fact that the linear accelerator is going to close and patients will have to travel out of area. We have spoken about the concern that presents for people undertaking cancer treatment.

He spoke about the fact that paramedics were taking unprecedented action, not responding to non-urgent call-outs, to join colleagues in solidarity at the rally today. As I said, they were parked around the perimeter, on the lawns. I have never seen them doing that. The only other time you see that many ambulances parked together is when they are ramped at the hospital. It was extraordinary. They came to the rally today and did that in solidarity with all of the public sector workers.

We heard as well from nurses who have written to Jeremy Rockliff. I will share some of the comments made by those nurses because this is the consequence of the Government failing to support public sector workers. It is seeing an erosion of essential public services because people are leaving, because they are not supported to do their job and the community suffers. This nurse wrote:

I am actively seeking work elsewhere because the thought of going to work gives me anxiety, lack of sleep and stress that is just not sustainable. The number of new and younger nurses I find in tears due to overwhelming work conditions is not fair. I know I could do better for my patients but the dire staffing levels make it almost impossible to provide even basic care.

Nurses are worried about providing even the most basic care.

The chronic shortage of midwives in Tasmania is having a massive impact on our staff and the women of southern Tasmania. We have not had a fully staffed roster for years and cannot retain interstate graduates due to the cost of living.

We also heard from a paramedic from the north-west, Simone Hay, who is also the president of HACSU's Ambulance sub-branch. She said that while regional hospitals are often supported through our paramedics attending with ambulances, the problem is much more acute in our urban centres. We see that with the ramping at our major hospitals. She said it is the regional paramedics that are getting pulled into urban areas because of ramping and high caseloads.

We see a lot of this - and this is me speaking - across the state where our country and regional ambulance paramedics and volunteer ambulance officers are pulled out of the community they are serving, they are ramped at the hospital, and that leaves that community without any local ambulance response. That is why we are seeing paramedics from Sorell sent to Huonville and paramedics from Triabunna sent to New Norfolk. It is why we are seeing people sent all over the state, well out of their area. When I talk to volunteer ambulance officers, they tell me: 'This is not what I signed up for. I signed up to support my community. I signed up to help the people I grew up with, or that I work with, or live with.' They end up ramped at the hospital or sent to a suburb far away from where they live. That also means our ambulance paramedics are getting pulled off all over the place. They are exhausted.

Simone went on to say that Ambulance Tasmania has increased its staff over the last couple of years, particularly through COVID-19. Unfortunately, most of these positions are COVID-funded. It is now getting to a point where that funding is going to run out and all these people on contracts have unstable work. If all these contracts end, the ambulance service will collapse. There are not enough resources and we are already struggling. The service has written to the Government and asked to upgrade those jobs to permanent and there is still no news about any of that.

The Government might get up here and spout numbers, saying, 'We have employed this many people'. How many of them are on a fixed-term contract? Yes, they might be an FTE but their position is not ongoing and if they are funded through the COVID payment, which is what some of these ambulance positions are funded under, that money does run out. What happens to the service when you take all those people out of it, out of a health system that is already in crisis? How do you think response times are going to improve in a scenario like that when they are already the worst in the country? How is that going to serve our community? How is it going to help the Government's bottom line when they are already spending \$3 million a year on ramped ambulances at the hospital and when we are already seeing enormous pressure on our emergency departments? If you take more resources out of ambulance services across the state it is a false economy.

We know Tasmania is in the grip of a cost-of-living crisis; we see it every day and hear those stories from our community. We heard it today from workers employed by the Government who are struggling to make ends meet. We also heard today from workers about their arguments for more resourcing, more time to do the jobs they love, and more support so they do not reach burnout and leave.

At the end of the rally today there was someone dressed up as a pilot and they were a depiction of Jeremy Rockliff because they were saying, 'Here he is, Captain Flight Centre, Jeremy Rockliff. Everyone get a ticket because the only way to get a fair go is to get out of here'. Sadly, that is what we are hearing from many of Tasmania's public sector workers. They think the only way they are going to get a fair go is if they leave Tasmania. These are highly skilled workers. They are the backbone of our public services - our hospitals, our schools, our

firies, our emergency services - services that support the most vulnerable people in our community, including our children. They are now saying that Jeremy Rockliff is effectively Captain Flight Centre because the way he is treating people leaves them with no option. Their only opportunity is to get out of here. This is a boarding pass saying 'Premier Rockliff invests in Tasmanian workers before they depart'. It is a pretty clear message.

What they are asking for is a fair go for Tasmanians. They want fair pay. They want the Government to invest in education, health and community services. They want the Government to recognise, retain and recruit workers. They want the Government to fix the services and invest in Tasmanians. I cannot disagree with any of that. It has my full support and it has full support of the Labor Party. In the words of Captain Flight Centre, 'Get on board. What are you waiting for?'

A number of different agreements are coming up for negotiation at the moment. We have heard about some of those but I would like to briefly run through them. We know that the Government has given an ultimatum to public sector workers that they have to sign up by 1 December or no backpay. They are threatening, intimidating and bullying essential workers to take it or leave it.

We have the public sector union wages agreements. Their last pay rise was 2.35 per cent in December 2021. We also have the teachers' agreement. Their last pay rise was 3.35 per cent in March 2022. We have Ambulance Tasmania's industrial agreement. Their last pay rise was 2.35 per cent in December 2021. We have the firefighters' industrial agreement. Their last pay rise was 2.3 per cent in December 2020, quite a while ago.

We have the salaried medical practitioners whose last pay rise was 2.35 per cent in December 2021. We have the visiting medical practitioners whose last pay rise was 2.35 per cent in July 2022. Then we have a number of GBEs and state-owned companies which are also in the middle of negotiations as well.

The correction officers' EBA expires next year; nurses and midwives expire next year; and police expire next year and they are not affected by the industrial action that is currently under way but there are a number of different agreements, part of these rolling agreements that are currently under negotiation.

In each of them they are asking for unique things specific to those workforces. However, universally what they are all asking for is what is on here - a fair go, a fair pay increase, investments in ability to properly be resourced to do their job in a safe working environment that is trauma-informed for those workers on the front line, exposed to those types of vicarious trauma situations. They want workforce plans so that they can recruit and retain workers in Tasmania.

The biggest concern that was raised today is how on Earth does this Government think it is going to get more workers when it cannot keep the ones it has? We heard many stories today that people are already leaving. How on Earth are you going to grow the workforce and deliver these essential services when mainland states are offering far more attractive packages? Mainland workers already, on average, earn \$10 000 a year more than Tasmanian workers. People are being incentivised to move to those other states from Tasmania to take up the jobs they have on offer.

The working conditions in Tasmania are not up to scratch, they are not on par. Putting the pay issue aside, the working environment, whether it is in our hospitals or our schools or any of the public sector environments we are talking about, are not fit for purpose for many of the services we are requiring those workers to deliver. This is where the most angst has come from when talking to public sector employees. They feel when the Government says they are negotiating good faith it is just lip service to them turning up to the table.

There were a number of months when public sector unions were pulling their hair out because they had done the work consulting with their workforce. They put forward a lot of claims, took those to the table with the Government and the Government had people at the table who could not make a decision. No-one was making a decision. It dragged on for months and months. The Premier, in the end, had to convene a meeting and sat down with a number of those unions because no-one was making a decision. Still, out of that meeting there were no decisions.

The work has been done by the unions across the workforce. We had an opportunity in this parliament earlier this year when the CPSU held an event in the reception room. Once again, not a single Liberal member attended. Had they attended they would have been able to speak to the workers in biosecurity, in our parks, in child safety services and talk to them about the claims they had put forward to improve their working conditions.

The CPSU put forward 100 claims and they were not all about pay, which this Government pretends to focus on as being the only thing people are talking about but it is not. It was about a whole range of different things about improving the delivery of government services and improving the efficiency of how government operates. Once again, the Government dismissed it and labelled all of the industrial action that has been taking place as somehow just the unions ignoring the workers, refusing to meet with the workers, refusing to listen to the workers and, when they finally come to the table with the workers, refusing to make decisions about their claims for fair pay and fair working conditions.

The motion before the House is very simple. It talks about the fact that the public sector workers in our state deliver the essential critical services that every single Tasmanian relies upon. It talks about the fact inflation is running at 8.6 per cent. It recognises that public sector workers across Tasmania are taking industrial action as a last resort because they have had enough of being treated with disrespect by this Government. It agrees that a wage increase that does not increase at the same rate as inflation is a wage cut in real terms. It agrees that the recruitment and retention of public sector workers is critical in being able to deliver public services needed by Tasmanians. Paying a comparably lower wage to other states and territories impacts negatively on recruitment and retention of public sector workers and, in turn, delivery of services in Tasmania. They are the facts. No one can dispute those facts.

What the motion calls on, and what the vote will be on today, is calling on the Premier, Jeremy Rockliff MP, to recognise the real value of public sector workers in Tasmania, and to treat them with the respect they deserve in wage negotiations. It is straightforward. The Government can agree to this one. They cannot dispute the facts. They are all there in black and white and supported by the evidence.

The motion is calling on the Government to recognise the real value of public sector workers and to treat them with respect as they negotiate wages and conditions. Surely it is not difficult to agree to that. If the Government cannot support this motion, if they cannot support



public sector workers being valued and being appropriately supported, then they are in a world of trouble.

Mr Speaker, I call on the House to support the motion to support our public sector workers so they can continue to deliver the essential services our community relies upon, to treat public sector workers with respect, and to make sure they do negotiate in good faith, and that they remove that final-offer rubbish and the threats and intimidation and bullying that we have seen. That is not good-faith negotiation.

You cannot say on the one hand, final offer, in all good faith. We are going to see in a moment whether what the Government says about public sector workers is actually true, as to whether or not they can support the motion that is before the House.

I notice the Premier is not here - just like he was not at the rally today, just like he did not meet with unions when they previously came to this House. That is pretty disappointing, because he is ultimately the person who can make these decisions and he is absent from the debate. That is important to note, because thousands of people turned up on Parliament Lawns today. They turned up across the state. They sent a message to this Government, and it seems the Premier still is not listening. Shame on him, Mr Speaker.

[4.12 p.m.]

**Ms O'CONNOR** (Clark - Leader of the Greens) - Mr Speaker, there have been some epic rallies on Parliament Lawns during the history of this place. Today's was right up there. There were, at a minimum, 5000 people I reckon, gathered on the lawns. It was at least as big as the biggest rally I have seen on the lawns, which was in relation to protecting the Tasmanian Wilderness World Heritage Area, probably about 10 years ago. On the lawns today we had teachers, teacher assistants, child safety officers, firefighters and healthcare workers. It was an extremely passionate crowd.

There was a level of resentment in the crowd, and anger, because it is very clear that many of our public sector workers feel undervalued, disrespected. There is a genuine and deep concern about their working conditions. We can all agree on this: our public sector workers work in those spaces because they are dedicated and committed.

One of the most confronting speeches today was from young Katrina, who is a child safety officer, who talked about the literal terror of child safety workers who, because there are not enough staff there for each child to have a case manager, go to bed at night not able to sleep because they know there is a high potential that children are in danger because they are under-resourced.

It was a very passionate rally. It certainly felt to me like it was just the beginning. Tim Jacobson from the HACSU said towards the end of his speech: 'This is not the last shot in our locker. We are firing a shot across the Government's bow'.

Mr Speaker, I think we are heading into a period of rolling industrial action. That is the feeling I got from the gathered crowd today, represented by the five unions, that are working together in making sure Tasmanian public sector workers have the wages and conditions that they deserve.

The real risk here for us, as an island state, is that we will not be able to keep our people. People will be lured to better-paid jobs, with better conditions, interstate. That is happening right across the public sector.

We also had real angst expressed about the inability of many public sector workers to afford to live - particularly, for example, teacher assistants, whose work can span from cleaning up vomit and wiping children's bums, to counselling kids who are having troubles, to teaching children when the teacher is away. These are public sector workers who, every time there is a scheduled holiday, are let go until school resumes. They are living on about \$677 per fortnight. I do not know how you would do that. I do not know how you would do that with children. I cannot imagine how you would do that with the cost of living where it is today.

It was a stunning rally and the Greens 100 per cent support the stop-work action of public sector workers today. We always have - we always will - support industrial action by unions.

Mr Speaker, we have a proposed amendment to Labor's motion. It is impossible to disagree with really anything in this motion, but we are disappointed in the punchline, because it does not say anything. Of course public sector workers should be treated with the respect they deserve in wage negotiations. Of course they need to be. However, after all this strong language in the top part of the motion, and a series of unarguable facts, we think that this motion can be strengthened so that there is real substance here.

I move that -

The motion be amended by omitting in clause 4:

'treat them with the respect they deserve in wage negotiations'.

And substitute instead:

'pay them wages that, at a minimum, keep up with increases to the cost of living'.

We do not think Labor would be able to argue with that. We think they should put their money where their mouth is.

Mr Speaker, with every government, it is all about your priorities. It is a bit like yesterday when the word 'stadium' was mentioned in the apology. People gathered on the lawns today understood -

**Mr Jaensch** - Made it a political speech, which was unfortunate, I thought.

**Ms O'CONNOR** - Sorry, what was that you said, Mr Jaensch?

**Mr Jaensch** - I thought you politicised your contribution yesterday.

**Ms O'CONNOR** - Did you? That is interesting. Many, many people came up to me afterwards to thank me for my honesty and to say that my speech really resonated with them. I am sorry that you felt truth-telling got a bit political for you, but I am not here to please you, Mr Jaensch.

**Mr Jaensch** - I did not think that is what the event was for. Oh well. You succeeded.

**Ms O'CONNOR** - I was standing up representing the Greens, and sincerely, unreservedly, apologising. I had the guts to apologise for anything the Greens may or may not have done to protect children and young people. I did not hear any of that from any of the other speakers yesterday - but I digress.

On the lawns today, when the stadium was raised, again there is this fury about it, because it is about priorities. If the Government can pour \$400 million into another stadium for Tasmania, but is putting up the hand to public sector workers, it tells you a lot about their priorities. A government that brought mining royalties collected in Tasmania up to the national average could afford to pay its public sector workers properly. I will remind the House again that Tasmania has among the lowest mining and royalty fees and charges in the country, and we are being ripped off. The people of Tasmania are being ripped off.

When governments say, 'We cannot afford to meet the union's pay claim, we cannot afford to look at your work conditions to make them more sustainable', what they are really saying is, 'We have de-prioritised that part of government but we will give you a stadium, we will give you bread and circuses, and we will keep letting our corporate donors off the hook, so they get bargain basement deals they will not get in any other Australian state or territory'. It is most certainly about choices.

That is the basis, in part, for our proposed amendment, which we hope Labor supports - that government needs to pay public sector workers the wages that, at a minimum, keep up with increases in cost of living. To reiterate what the House knows, there are many steps government can take at the same time to lower the cost of living. It can rein in rents. It can roll out more energy efficiency into low-income households. It can make public transport free. These are investments in the Tasmanian people. They would be tangible cost-of-living measures - and they should be done in tandem with paying our public sector workers the wages they deserve - at a minimum, paying them a wage that keeps up with rising cost of living, because you cannot have a system that allows people to go backwards exponentially. That is what would happen.

We commend the motion to the House. I also commend to the House a document that has definitely stood the test of time. It is the CPSU's *100 Claims for a Better State Service: Tasmanians Still Need a Pay Rise*, which tells a story of a union that wants to have good-faith negotiations, have public sector workers paid what they deserve but is also being constructive, creative and lateral about working conditions for public sector employees.

As we heard on the lawns today, it is not about doing less work. It is about being supported to do your job properly. Being supported so you do not burn out. Being supported so you do not go home at night stressed and increasingly close to burn-out.

I commend the CPSU claim from June this year and also our motion to the House. I hope it has Labor's support.

**Mr FERGUSON** (Bass - Treasurer) - Mr Speaker, I am pleased to rise to speak to the motion brought forward by the Leader of the Opposition and thank her and Ms O'Connor for their contributions to date.

The Government will not be supporting the motion nor will we be supporting the proposed amendment. I will speak to those in some clarity in the time remaining in this debate.

Ms O'Connor has made a compelling argument. I would not normally commence a contribution by quoting Ms O'Connor, but on this occasion I will. The amendment now before the House is a fruition of Ms O'Connor's remarks this morning, during the Matter of Public Importance, when Ms O'Connor called out the Labor Party in a very direct way, saying, 'Thank you to Labor for bringing on this MPI'. The House will remember the MPI was simply titled, 'Real Wages' yet Dr Broad, in his contribution, did not talk about Labor pinning itself to a real wages outcome. He avoided it. I return to Ms O'Connor's quote:

Thank you to Labor for bring on this MPI. If we want to have an idea of what Labor's position on public sector wages is, I point members to the Notice of Motion that will be debated by Labor today.

and the punch line:

The final line does not say: 'Pay public sector workers wages that at minimum keep up with the increases and the cost of living.' What it says is treat public sector workers 'with the respect they deserve with wage negotiations'.

We can all agree with that but it does not say that Labor supports the unions' claims. It is important this is placed on the record.

It is very embarrassing for the Leader of the Opposition that she has been out-unioned by Ms O'Connor of the Greens party in relation to this matter.

What we have had earlier during this debate is one of the least passionate addresses I have ever heard by a leader of the Labor Party on labour and union matters. It was profoundly lacking in spirit and profoundly lacking in any policy depth.

It was like an athlete setting off from the starting line, aiming for the finish line and rather than running towards it, walking towards it, occasionally speeding up and slowing down, getting to the finish line and not quite crossing the finish line but going back to where we started, and over and over it went, never actually arriving at the impression that was created, which is that Labor wants everybody to believe they want to see a wage outcome pegged to the inflation rate, which at the moment in our state is running at 8.6 per cent, very high historically. It is no different around the rest of the country. It is higher in other western economies.

The challenge in the pattern is universal across the world because of the incredible increases in costs and restriction in supply of goods and services around the globe. Much of the blame can be laid at the murderer Putin's feet because of what he has been doing to that poor country and those terribly dispossessed people of Ukraine: the way in which it has shattered the agriculture of that country, the steel-making industry, one of the biggest producers of agricultural produce and mineral processed products devastated. Much of Europe and the economy are affected and the effects have been felt right around the world. Not the least of which is also explained by that fact that governments the world over, have, through COVID-19, deliberately stimulated their economies to try to help their economies get through. Our economy has done that also. The positive on that is that we have such low unemployment at

the moment that people are able to get work if they want work, in a way that has not been known in my lifetime.

There are negative effects as well. Costs have been going up and these are real issues. As I said in the MPI this morning, the real issue that Dr Broad brought forward legitimately was inflation but, notably, and Ms O'Connor has thoroughly called out the Labor Party on this, no solution. In fact -

**Ms White** - You are not even supporting a motion to respect workers. You are a disgrace.

**Mr FERGUSON** - in avoiding that finish line, they are trying to tell their union masters, they are trying to send a signal that they support pegging wage outcomes at inflation but they are not actually committing to it with their actions in this House or through the motion.

**Ms White** - You won't even support respecting workers.

**Mr FERGUSON** - Ms O'Connor has had to do it for Ms White. I find that incredible.

**Ms White** - Unbelievable. Disgraceful.

**Mr FERGUSON** - Ms White, you were listened to in silence. You tried to make your case. I listened carefully to what you had to say and I am responding.

Ms O'Connor has now placed an amendment before the House to deal with that matter. When the Labor Party were constructing this motion, they left the finish line and decided, for whatever reason, that they are not going to peg a wage outcome at the prevailing inflation rate. It was probably quite wise on that point, because as everybody knows, to peg wage outcomes to inflation is how you stimulate more inflation. A first-year economics student would know this already. In fact, the RBA has warned that that kind of economic decision will further fuel inflation and counteract the decisions that the RBA is taking in order to reduce inflation.

I would have thought everybody here would want inflation to be brought under control. Far from being honest about the situation, Ms White has wanted to create the impression that the Labor Party is supporting the union's claims for a wage outcome that is pegged to inflation. After all, have a look at their MPI this morning, which was about real wages. It does not take long to decode that. A real wages outcome means that it has kept up with inflation. We hear this rhetoric from the Labor Party, and they choose to say it, that if you do not have a wages outcome that keeps up with inflation you have a real wages cut and they talk about that in argument with the Government's approach on wages, which is a real approach we are taking.

We want to see our valued public sector workers receive a pay increase. They are due for one and we want to pay one. As I have said many times in this House, we need to find an agreement. In the absence of an agreement the union bosses are denying their members a pay increase whenever it falls due, therefore it falls to us to find a way to make an agreement that works for both sides of the negotiating table.

It has been made clear this morning by the Premier what the cost of pegging a wage outcome to the Hobart inflation rate would cost.

**Ms White** - It is interesting.

**Mr FERGUSON** - It is interesting, yes, because the Labor Party has been artfully dodging this since May when the Government increased the wage allocation index from 2.25 per cent to 2.5 per cent. Since the Budget was brought down and since that time, the Labor Party has been criticising the Government that that represents a real wage cut. It does in respect of inflation but every member of the Labor front bench has spent every day since 26 May this year avoiding the question: what is your wage policy as an opposition? After all, you criticise the Government for hours, so what is your alternative that you want us to adopt? They have artfully dodged it every day.

It is quite puerile and it is fair to say it is the Labor Party speaking with a forked tongue. They want people to hear one thing but they are not prepared to say it and commit to it in any sense of an alternative policy, much less an alternative budget where they would commit their policies, revenue and expenditure into a document where the Tasmanian people could see what they actually stand for.

We often criticise the Greens' alternative budgets. They slash roads and bridge funding to fund the things they would rather do, decimate our forestry and resources sector to fund the things they would want to fund, but at least they have the courage of their convictions to year after year, with a fraction of the staff of the Opposition, produce their alternative budget.

Ms O'Connor has placed an amendment before the House and this is what my brief mathematics exploration of this amendment looks like. If the House was to adopt the view that the wage outcome should be pegged to inflation, which is effectively what this amendment commits, it represents a 6.1 per cent increase in the allocation above indexation currently provided for in the Budget; 8.6 minus 2.5. We know that for every 1 per cent increase above the indexation provided for already, 1 per cent cumulative over the Budget and forward Estimates is \$398 million. This amendment has a price tag of \$2 427 800 000, or to be more simplistic, \$2.4 billion.

**Ms O'Connor** - Over the Estimates.

**Mr FERGUSON** - Over the Budget and forward Estimates. That is the price of this amendment.

I have heard Dr Broad as the shadow treasurer criticising the Government for our net debt position. We made a deliberate decision in 2019, well before the pandemic, to move into borrowings to fund a much stronger capital program. Just as well we did, because it pump-primed that industry to continue to support our economy through the pandemic we did not know was about to hit us.

Through the pandemic itself, this state, with the most generous pandemic response arrangements in the country by the size of our economy, incurred about a further \$1.5 billion of borrowings to support our economy and our community through that time yet the Opposition would dare to criticise the Government for our net debt position today which is one of the lowest in the country.

You may as well take this position that the Labor Party, speaking with their forked tongue - you are going to have to add \$2.4 billion right there. That does not deal with the structural puzzle you have then created for yourself in the out-years beyond the forward Estimates. What does that do for the children of our state and their future? What does that do

to the taxation that will have to be raised to service that debt and repay it, then to deal with the recurrent cost of very large wage increases? Apart from the fact that they will further stimulate the inflation problem and counteract decisions that the RBA are taking, you will have created a real mess for our community. This is the problem that I have.

**Ms White** - You are doing a great job of creating a mess.

**Mr FERGUSON** - Ms White, if you had even half the passion in your address it might have been a speech that said something. This is the problem I have with the Opposition. They want to telegraph a message to their union masters that they are on the same page as them - real wage increases which means a minimum 8.6 per cent - yet when they have the opportunity to bring forward a private member's motion they walk up to the finish line, do not cross it and walk back.

You want people to believe that you are serious but the truth is you are not serious. You are playing a dangerous game with people's hopes and beliefs about what you stand for. I put the view that the Labor Party in Tasmania stands for very little. If it did, it would be prepared to back itself and produce a costed alternative but we know they will not. We know they will not do it. Nick and Dougie will not allow them to do it.

That is nothing new because, throughout the time the Liberal Government has been in office, Labor has refused to ever commit to an alternative budget, but this one is a biggie. This is a whopper. We are facing in our state and in our country a very significant inflation problem. I have explained why. Hopefully that is not news to anybody.

When you look at the recently elected federal Labor government, I do not agree with all of their decisions at all, but I will say they appear to stand for something. Dr Chalmers has taken a very resolute position on inflation. We wanted him and his government to provide more support to Tasmanian householders and businesses who are doing it tough. I put the view that there are things that Dr Chalmers and his government could have been doing that would have supported Tasmanian householders and businesses that would not have added to the inflation problem, but they have nonetheless declined. I will mention three.

First of all, they could have acted on fuel excise reduction relief being continued. It would have supported families and businesses in Tasmania. It could have been done in a way that scales and tapers down, and it could have allowed motorists and businesses in our state to adjust over time. In my view, they have chosen instead to rip the bandaid off to get the pain hot and fast and then to spike the inflation, so that they can see inflation come off next year. That is my view. Of course they have refused to do that. What about the quietness from those members opposite on that issue? It has been breathtaking.

The second issue is electricity prices. I cannot explain why, during the election campaign leading up to May, the Labor Party promised dozens - if not hundreds of times - that householders would realise a \$275 per year reduction on their power bill. The invasion of Ukraine happened a long time before the May election, so it is not like that was a surprise, but that was the promise they committed to. They have been elected. They have been there for six months or something. No action, but resolutely walking away from that commitment today - and they argue, as they do with fuel, that they are showing discipline and they are not going to add to inflation.

The third one - which I feel is not necessarily in the economic and financial space, but would have a real impact on the lives of Tasmanians - is actually lifting a finger in the area of primary care and general practitioners. They talked a big game in the election, but we have seen no action there.

We gave the previous federal Coalition government our expectation on this issue as well. We are consistent in calling for a far more proactive approach from Canberra, regardless of who is in power, on the very real problem that we have with general practice medicine in Tasmania. The lack of support is concerning. GPs are reducing their hours or leaving the profession or moving to other skill sets, and we have seen the federal Government not lift a finger on fuel -

**Ms Butler** - So are child safety workers, so are paramedics, so are nurses. They are your direct responsibility.

**Mr SPEAKER** - Order.

**Mr FERGUSON** - not lift a finger on electricity prices for Tasmania, not lift a finger for GPs by funding Medicare, as they led people to believe.

**Ms White** - How can you say that when you have done nothing?

**Mr SPEAKER** - Order, I remind the Opposition that they were heard in silence. The Leader was heard in silence. I expect the same with this contribution.

**Mr FERGUSON** - Those things would help. Instead they are taking a much more resolute position on those matters and it is adding to the challenge for Tasmanian families.

Mr Speaker, I am interested, given that Labor had all the time in the world to write this motion, but it either did not occur to them to be as deliberate as Ms O'Connor is suggesting, or they particularly did not want to do so. I believe it is the latter. So, there will be a test of not just the Government members today in relation to this motion, but of the Labor Party, because if they vote for Ms O'Connor's amendment, I will ask the question: why did you leave it out in the first place, because it was so obviously missing. It is not an accidental omission. You have deliberately left it out because you want people to think you are okay with pegging wages to inflation, but you knew it was economically irresponsible, so you did not do it. I find the hypocrisy really challenging, and I think the Tasmanian people deserve to know those facts about the Labor Party.

With respect to Ms White's earlier contribution, I make the point very firmly that we are committed to ensuring that negotiated wage outcomes are fair, that they are affordable and that they are reasonable.

We are committed to negotiating in good faith. When you negotiate in good faith, you appoint negotiators to work together and try to find a common understanding. That is how it should work. We have very responsible people working in those negotiations. They are professional people, hardworking people, and they are committed to the outcome that we are all looking for - or at least the Government is looking for.



Yes, we have had a number of offers presented to the unions. I am disappointed, Mr Speaker, that those offers have not been presented to the ordinary everyday members of those unions. The members of those unions have not been permitted to vote on those offers. I find that very difficult to understand. It has not got past the union executive. That is holding back progress on striking an agreement. There have been numerous offers, above even what was provided for in the Budget, which we believe we were able to justify, but there has to be limits.

The final offer provides a three-year agreement, with increases to wages by 3.5 per cent in the first year, then 3 per cent each year over the next two years. This is more competitive than most other states. Happy to exclude Queensland. Members can discuss among themselves why they think Queensland might have gone for 4 per cent for two years, before reverting back to 3 per cent. Have a think about it. It will not take you long.

We are very competitive compared to our peers around the country. The Australian Labor government, only again just elected, is offering its employees 3 per cent, Mr Speaker. Not 3.5 per cent with one-off cost of living payments, as we are. I do not hear the Labor Party in Tasmania muttering a word about that.

We have offered a revised one-off cost of living and retention payment each year of \$1000 to all employees in years one and two, and \$500 in year three. This is on top of the 3.5 per cent, then 3 per cent and 3 per cent - and for those employees who are in the lower bands, an additional one-off payment of \$1000 for those up to, and equivalent to, general stream band 3. This means that those on those lower bands would get an equivalent of 6.97 per cent and 8.83 per cent in the first year. Naturally, the 8.83 per cent would be for those on the very lowest of the public service bands.

I heard Ms White. I listened carefully and I heard her also reflecting that somehow the Government is not even retaining the employees that we have. That is not true and Ms White needs to be more careful with the facts. As at July this year, employment in the general government sector has increased - not static, not nil all, not gone backwards. It has increased by 4514 full-time equivalents since we were elected, and since 30 June 2014. That is an 18 per cent increase over this period. How many governments do you think would be able to say that in eight years they had increased their employees by 18.4 per cent?

I was provided some advice earlier today on education. I heard Ms White this morning say that when we were elected to government, we sacked two teachers per classroom. I thought, that sounds strange, classrooms would not normally even have had two teachers, but she corrected herself later and said two teachers per school. You see, you cannot trust Labor with anything. In our first year in office, employee numbers in the Department of Education increased, in fact. Just in the last year, overall employees have increased -

**Ms O'Connor** - I went to school assemblies where they were sobbing because they were losing their music and arts teachers.

**Mr SPEAKER** - Order, Ms O'Connor.

**Mr FERGUSON** - I have data from March 2021 to March 2022. Overall, not just teachers, but overall employees increased by 180 FTEs. I asked minister Jaensch if he would

get that data for me so that I could deal with the claim being made by the Leader of the Opposition. It was very misleading.

On teachers out of that number, it is a small number, but it is an increase of seven additional FTE teachers in schools over that period. That does not sound like what Ms White had to say earlier, that we were not able to retain the numbers that we have. I acknowledge seven is not very many, but it is not the decrease that this House was told that education and teachers were experiencing. Across the department, overall employee numbers are up by 180.

What kind of debate are we having when people bring their own made-up facts to the debate -

**Ms White** - It was in the annual report.

**Mr FERGUSON** - and just say things and expect us to believe them to influence the outcome of the debate? Since we were elected in 2014 the additional staff that have been employed in schools includes: 435 FTE teachers; 421 teacher assistants, including education support specialists; and 49 school administrative staff, who are essential as well.

Going back to the Department of Education, in June 2014, in education, not just teachers of course, across the department 7784 FTE. The following year, June 2019, 8546. Why do I have to come and correct the record for Ms White? I should not have to do that. However, it is necessary so that the House can have correct information, not made-up information - not this speaking with a forked tongue behaviour that we have become so used to. I do not expect for one moment that Ms White will apologise or seek to correct the record as ministers routinely have to do whenever we get something wrong because we believe in not misleading the House. By the way, that rule does not just apply to ministers; it applies to every single member. That is the discipline that needs to be brought to the debate. How about we have actual facts, not made-up facts that are convenient for your particular point of view?

They are the facts as to our employee numbers. There is tremendous pressure in the labour market in Australia at the moment, including in Tasmania, because of the historic high level of employment and the higher participation that is occurring as well, both of which are positives but with those positive economic movements there are downsides as well. In a constrained labour market, people have greater choice and flexibility about looking at other jobs and we are seeing that happen.

In my own kids' part-time jobs there are businesses crying out for more employees, in skilled and in unskilled positions. We are seeing it everywhere. There is increased opportunity for choice, for people to look at their opportunities. Teaching is in that space as well, and so are many industry groups and occupations.

As I have been able to show, March to March, our teaching numbers have been modestly increased. Wages in Tasmania have showed healthy growth at levels that are reasonable and affordable as well. Tasmania's wage price index -

**Dr Broad** - Just pick your two best dates.

**Mr FERGUSON** - Dr Broad, if you have other information that you can show me that I am in some way incorrect, I welcome that and I am prepared to be accountable. That is the

information that I have. What I have been able to do is show you that you bring things to the table that cannot be trusted.

**Members** interjecting.

**Mr SPEAKER** - Order.

**Mr FERGUSON** - You have made it up and you thought you would get away with it and you have been exposed. You were exposed this morning on the MPI and your leader has been exposed for getting things wrong in here. Let us give her the benefit of the doubt and not say it was deliberate. It was not honest and it has not been correct.

**Ms O'Connor** - It is possible you have misled the House, minister. According to the ABS, Tasmanian public school numbers decreased by 139 FTE in your first year in office.

**Mr SPEAKER** - Order, Ms O'Connor.

**Mr FERGUSON** - Thank you for your interjection. I have brought to the House the information that I believe is reliable.

**Ms O'Connor** - That is the ABS data.

**Mr SPEAKER** - Ms O'Connor, you have had your contribution.

**Mr FERGUSON** - You do not get to make your own facts.

Our wage price index in the year to June 2022 was 2.9 per cent which was the equal strongest growth in Australia. The annual growth in Tasmanian wage price index has exceeded the national wage price index for 29 quarters in a row and our annual growth rate has been in the top three jurisdictions every quarter since March 2016. Every other treasurer and every other premier is experiencing inflationary challenges. Not one of them is committing or is able to peg wage outcomes to these very high inflation CPI outcomes that we are seeing.

Two reasons, there is not the money. Second reason, it adds to inflation. It makes the problem, that you think you may be assisting, worse.

**Dr Broad** - No, it does not.

**Mr FERGUSON** - It does do that. It has the effect of making the problem that you think you may be solving, worse.

**Ms O'Connor** - So, wages have been suppressed and inflation is doing that.

**Mr FERGUSON** - Have a look at Japan in the 1970s. A case study is written for you in history, and you can see what a reckless approach leads to and how it makes the puzzle more challenging to solve. The Labor Party colleagues in Canberra know this. The Australian Government is not linking wage increases to inflation. Dr Chalmers, in his budget speech, indicated that real wages would not start growing again until inflation moderates.

I will quote him in a moment, but let us remember, Dr Chalmer's budget provides a 3 per cent increase for his public servants, less than what we are offering ours. He said:

Wages are growing faster now than they were before the election but that welcome news is tempered by rising electricity prices, and grocery bills eating into pay packets. When that inflation moderates, real wages are expected to start growing again in 2024.

Not this year. Not next year, 2024. Dr Chalmers also pointed out that government policies need to have an eye to the effect on households and ongoing cost of living. I quote:

Australians know a complex combination of challenges at home and abroad is pushing up the cost of living. They know that governments can't make inflation disappear overnight, and they don't need us taking steps that would just make the problem worse, by putting even more pressure on prices and making the independent Reserve Bank's job even harder.

That is what the Australian Labor Party federal Treasurer had to say. We cannot, in good conscience, blindly sign-up to measures that we know would place further pressure on household costs and increase the tax burden on future generations of Tasmanians who would have to pay for this -

**Ms White** - Like the stadium.

**Mr FERGUSON** - I am quite content to take that interjection and deal with that as well. As I indicated with my reference to Ms O'Connor's amendment, which has a \$2.4 278 billion price tag, the State's contribution of a capital asset, which would be with us for generations to come, would be around 16 per cent of that four-year cost - not the 40-year cost of what is being proposed by Ms O'Connor. Happy to take that interjection from the Leader of the Opposition.

This is just reckless from the Labor Party and the Greens. They are signalling something to people outside that they want them to believe, that they are going to support -

**Ms O'Connor** - No, we fix up royalties and licences. We would fix it up.

**Mr SPEAKER** - Order.

**Mr FERGUSON** - Well, you might actually stand for your amendment. I do not think that the Labor Party stands for much, so I might correct myself and agree with your interjection on that. You might well believe that the future generations of our state can sustain an extra \$2.5 billion of wages spending over four years

**Ms O'Connor** - It is about your priorities.

**Mr FERGUSON** - This has been a really poor debate from the Opposition, who have moved this motion today. I have comprehensively demolished their arguments and they have been exposed by Ms O'Connor. They are occasional friends when they want to form government.

**Members** interjecting.

**Mr FERGUSON** - Ms O'Connor has absolutely exposed the Labor Party for deliberately avoiding putting into their motion 'pegging wages to inflation'. Ms O'Connor has helped you do the work that you chose not to do -

**Ms White** - How about you just do your job?

**Mr FERGUSON** - You can vote on it according to your own party policies, but we will not be supporting the amendment. The Government does not support the motion. What we do support is paying our wage increases to our employees whom we value and respect and with whom we are negotiating with in proper fashion so that they too can have a stronger opportunity in their job, a sense of reward and acknowledgement for the great work they do every single day, as we do negotiate in good faith. Unlike those members opposite, we are negotiating in a way that is affordable for future generations.

**Time expired.**

**Mr SPEAKER** - The first question is that the amendment be agreed to.

**The House divided -**

**AYES 10**

Dr Broad (Teller)  
Ms Butler  
Ms Dow  
Ms Finlay  
Ms Haddad  
Ms Johnston  
Ms O'Connor  
Ms White  
Mr Winter  
Dr Woodruff

**NOES 11**

Mrs Alexander  
Ms Archer  
Mr Barnett  
Mr Ellis  
Mr Ferguson  
Mr Jaensch  
Ms Ogilvie  
Mr Street  
Mr Tucker  
Mr Wood (Teller)  
Mr Young

**PAIRS**

Ms O'Byrne

Mr Rockliff

**Amendment negatived.**

**Mr SPEAKER**- The question is that the motion be agreed to.

**The House divided -**

**AYES 10**

Dr Broad (Teller)  
Ms Butler  
Ms Dow  
Ms Finlay

**NOES 11**

Mrs Alexander  
Ms Archer  
Mr Barnett  
Mr Ellis

Ms Haddad  
Ms Johnston  
Ms O'Connor  
Ms White  
Mr Winter  
Dr Woodruff

Mr Ferguson  
Mr Jaensch  
Ms Ogilvie  
Mr Street  
Mr Tucker  
Mr Wood (Teller)  
Mr Young

### PAIRS

Ms O'Byrne

Mr Rockliff

**Motion negatived.**

## **CABLE CAR (KUNANYI/MOUNT WELLINGTON) FACILITATION REPEAL BILL 2021 (No. 17)**

### **Second Reading - Negatived**

[5.08 p.m.]

**Ms O'CONNOR** (Clark - Leader of the Greens) - Mr Speaker, for kunanyi, for Tasmanian Aboriginal people and every Tasmanian who loves kunanyi wild, just the way it is, and on behalf of the Greens, I move -

That the Cable Car (kunanyi/Mount Wellington) Facilitation Repeal Bill 2021 be read the second time.

In doing so, I want first to acknowledge the deep spiritual connection Tasmanian Aboriginal people have to that beautiful mountain, which they know and now we know by its true name, its first name, kunanyi.

The Cable Car (kunanyi/Mount Wellington) Facilitation Repeal Bill 2021 obviously repeals the Cable Car (kunanyi/Mount Wellington) Facilitation Act 2017. That act was an abuse of parliament. It was developer-driven and contemptuous of the lack of social licence for the project. It was contemptuous of the Tasmanian Aboriginal community, which had overwhelmingly rejected the very notion of a cable car to the summit of kunanyi, across the Organ Pipes and the privatisation of the pinnacle. That act was an abuse of parliament.

Mr Speaker, 852 people made submissions to the 2017 public consultation on the draft bill, which we are seeking to repeal today. Of these, 501 submissions commented on the draft bill and 80 per cent of these 501 submissions opposed the bill. That is a damning set of numbers. When the development application was lodged to Hobart City Council, 71 per cent of the 17 000 submissions opposed the cable car.

People love that mountain, clearly, and that again is a stunning and comprehensive rejection of the Mount Wellington Cableway proposal. The cable car facilitation act did three things. A complete corruption of good process: it eliminated the requirement for a cable car proponent to seek landowner consent in relation to land owned by council or the state before lodging a development application. It sought to shut out the Hobart City Council from that

decision. It enabled the minister to sign off on access to public land for a cable car proponent to perform assessments and investigations in relation to a development application. It treated a cable car project, perhaps most damningly of all, as public infrastructure for certain purposes in the Land Acquisition Act of 1993, effectively allowing the Government to acquire council land, public land, and gift it to a cable car proponent. Primarily in this case, that is the pinnacle or any other public land that is associated with this divisive and now rejected project.

Thus far, the act has been used on 11 February 2019 to allow Mount Wellington Cableway Company Proprietary Limited to access land adjacent to Wellington Park to undertake site investigations. On 22 March 2019 the act was used to allow Mount Wellington Cableway Company to access Wellington Park to undertake site investigations. In June of 2019 it was used to allow Mount Wellington Cableway Company to lodge a planning application without landowner consent.

Peter Gutwein, as the then state growth minister, issued drilling permits for the company that were never used. The act requires a cable car proposal on kunanyi/ Mount Wellington to be treated as 'infrastructure' under the Land Acquisition Act of 1993. This in effect treats a commercial cable car proposal as public infrastructure required for the delivery of public services. That is what the Land Acquisition Act 1993 is all about - roads, water, communications, education and health infrastructure, hydroelectric infrastructure. It bypasses the usual requirements of land acquisition for infrastructure to be operated by the private sector.

The Land Acquisition Act 1993 is a controversial and necessary piece of legislation that confers significant power to the executive for the delivery of key public services. The drafting of the Land Acquisition Act 1993 'conferring privileged status to necessary public works' is deliberate, but that act was misused to favour a single proponent that wanted to - probably still wants to - desecrate kunanyi, put a cable car up the mountain, across the Organ Pipes and privatise the pinnacle with about 13 or 14 different structures on the top.

What a shame you are not wearing a mask, Mr Barnett.

**Dr Woodruff** - Yes, thank you very much for putting us all at risk by sitting in here.

**Ms O'CONNOR** - Yes, all of us at risk, everyone in here who is not wearing a mask. I thought I was working with smart people but each day I wonder more, except for Dr Woodruff, of course, who is very, very clever.

Mr Deputy Speaker, the Land Acquisition Act of 1993 and previous iterations of these laws, were written to ensure essential works could occur. It was not intended to be a tool to transfer land from an unwilling seller - that is the Hobart City Council on behalf of the people of Hobart - to a commercial proponent in order to facilitate a commercial development. That is exactly what the Cable Car (kunanyi/Mt Wellington) Facilitation Act 2017 was designed to do. It needs to be repealed.

Bless you too, Dr Broad, sitting there sneezing, unmasked.

The proposal from the Mt Wellington Cableway Company is, as we understand it, the eighth proposal for a cable car on kunanyi/Mt Wellington. It is the only one to have a development application assessed and it was rejected by both the Hobart City Council and the TASCAT. The proposal has comprehensively failed under the Liberal's own planning scheme.

There is no justification for parliament to maintain a facilitation act. The TASCAT decision confirmed 18 grounds of non-compliance with management and planning provisions, including noise and visual impact, geo-heritage, and on biodiversity grounds.

Some of the matters that were noted by the tribunal in its decision included, and this is directly from the decision:

... the appellant has failed to adequately demonstrate, either a significant long-term economic community benefit or a significant long-term social community benefit ...

Another part of the decision:

... the long-term impact on vegetation values insofar as they form habitat for threatened species will not be remedied.

Construction of the Pinnacle Centre would result in long-term or permanent changes to, and loss of visibility of landform features.

The (visual amenity) loss is demonstrated by the manner in which tower 3 and the cables (with or without cable cars) project from the landform above the Organ Pipes escarpment, and the cables traverse over the face of the Organ Pipes from a wide range of public and well-used locations.

Again, in the decision:

The form, scale, design, and location of the Pinnacle Centre does not harmonise the site.

For northern members who sometimes treat the hopes and aspirations of people who live in and around Hobart with a degree of contempt and who were not aware of the scale of this proposed development, it would have a base station in the foothills of the mountain at South Hobart that has three levels, partially excavated into the slope. It would have a pinnacle centre comprising three stepped levels with a total floor area of 2256 square metres -

**Dr Woodruff** - Wow.

**Ms O'CONNOR** - On the pinnacle. On sacred land to Aboriginal people. On public land. That would include a rooftop garden; lookouts; a café and lounge that would have a combined floor area of 393 square metres; a pedestrian walkway; and on and on it goes - about 13 or 14 separate structures. There would be three towers constructed to support the cableway. A cableway comprising six cables spanning a distance of 2.4 kilometres would run between the base station and the pinnacle centre via the three towers. As I said earlier, the cableway would go straight across those beautiful dolerite columns of the Organ Pipes.

I quote from a fantastic community organisation that Dr Woodruff and I are proud to support and know - the Residents Opposed to the Cable Car - following the TASCAT decision. ROCC welcome today's decision. Let us not forget that this community organisation put untold volunteer hours into defending the mountain. They funded the planning appeal process, they



have worked so hard and at such individual cost. We, in the Greens at least, are extremely thankful to that community organisation. They said:

In the wake of this decision, it is clear the developer has an obligation to abandon its proposal and leave the mountain cable car-free.

A quote from Vica Bailey, spokesperson for ROCC:

We are relieved that this decision is yet another comprehensive rejection of the cable car and thankful to the thousands of people who stood up for kunanyi, donated to our legal fund and cared enough to take action to protect what is such a special place for so many. This is a clear signal to the proponent, its shareholders and supporters to give up on their vision to privatise the summit of the mountain and abandon this or any alternative cable-car development -

because we will fight it every single time. We will never give up on kunanyi. Mr Bailey goes on:

This saga has cost the community dearly, in time, energy, cohesion and money, and it is time it ended. The developer is the only one that can do that and the onus is on it to accept this decision and allow the community to move on.

The decision confirmed on 18 of 26 grounds of non-compliance with management plans and planning provisions, spanning noise, visual impact geo-heritage and biodiversity.

The final word from Mr Bailey:

This is a comprehensive formal rejection of a development that has never -  
and this is true, Mr Deputy Speaker -  
has never had a social licence.

This statement from the excellent people at the Tasmanian Conservation Trust, and we thank them as well:

The Tasmanian Civil and Administrative Tribunal has delivered its ruling on the Mount Wellington cable car. The tribunal upheld the Hobart City Council's refusal to issue the company with a permit. Eighteen of 26 grounds were upheld, including visual impact, natural and cultural values, biodiversity impacts, traffic issues, building design and building siting, use and noise, were all upheld as reasons for refusal.

This is a huge win for all those who love the mountain and its wild natural beauty. The Tasmanian Aboriginal Centre, Residents Opposed to the Cable Car, Respect the Mountain, South Hobart Progress Association, the Bob Brown Foundation and a number of other private individuals were party to the appeal. The Tasmanian Conservation Trust understands that the Mount Wellington Cableway Company and its backers have 30 days to launch a review of this

decision in the Tasmanian Supreme Court. Of course, if the developer is foolish enough, arrogant enough, dismissive of community feeling and of our planning bodies enough, to launch an appeal, the Tasmanian Conservation Trust will consult with other parties and consider joining the case. I bet you they do.

It is also true that the proponent treated Tasmanian Aboriginal people and their deep connection to kunanyi, a place they regard as sacred, with utter disrespect from the very beginning. The proponent registered the domain name, kunanyi.com. How disgraceful is that? They made attempts to publicly position the Aboriginal community regarding the development despite consistent criticism from the Tasmanian Aboriginal Centre and other Tasmanian Aboriginal stakeholders.

In the original development application, the proponent tendered an Aboriginal heritage desktop review - again, how disrespectful - as evidence it will not impact on Aboriginal heritage on the grounds that there is no stone or bone under the actual footprint of the development. The council requested more information, the Hobart City Council saying an Aboriginal heritage assessment must be conducted. The proponent, for reasons that remain mysterious to me, appealed this request to the Resource Management and Planning Appeals Tribunal, predecessor to TASCAT, and lost.

Seriously, the Mount Wellington Cableway Company is the biggest loser in Tasmania at the moment.

**Dr Woodruff** - They have been given so many handouts.

**Ms O'CONNOR** - So many handouts, so much assistance from Government. A facilitation act was put forward by the Liberals and supported by Labor, back in 2013. A bill was put forward as a private members bill by my then-colleague in opposition, the Liberal member for Clark, Ms Archer, that removed the veto power over development on the mountain from the Wellington Park Management Trust. All the way through, this proponent has had government bending over backwards to get this development up, but it is such a crap proposal. It was rejected by the Hobart City Council. They lost in the Resource Management Planning Appeal Tribunal on Aboriginal heritage and now it has been rejected by TASCAT. Mount Wellington Cableway Company is the biggest loser in Tasmania right now.

The proponent could not engage a local Aboriginal heritage officer, apparently, so they brought in a South Australian, who is an expert, as we understand it, in frontier engagement and history. Obviously, not the frontier here in lutruwita, frontier engagement and history somewhere else on the mainland. The resulting report was widely and rightly criticised by Tasmanian Aboriginal people.

The TASCAT appeal did not explicitly consider Aboriginal heritage but evidence from Residents Opposed to a Cable Car, in relation to visual and noise impacts introduced three statements from Aboriginal people that discussed their connection and the impacts the cable car would have.

Just as an aside here, the Wellington Park Management Trust has a section on its website which talks about that Aboriginal heritage on kunanyi and the connection of Aboriginal people to the mountain. The statement on the website is:

Sandstone rock shelters and stone artifacts are visible reminders of the South East tribe, one of the nine tribes of Tasmanian Aborigines at the time of European settlement. Their country ranged from Storm Bay and the D'Entrecasteaux Channel, including Bruny Island, to South Cape, New Norfolk and the Huon Valley.

Within the tribe, there were seven to nine bands or kinship units of 40 to 50 people. For the muwinina people, the area around present-day Hobart was their country. They called the mountain kunanyi, a name that has been revived by Aborigines today.

As we know, because of the Greens in government, it is a name that is formally recognised through the Nomenclature Board and we regard it as the mountain's true name.

I digress. Back to the Wellington Park Trust statement:

The coastline of this country was rich with shellfish and the land with birds and wallabies. The muwinina used fire as a method to clear vegetation and hunt wildlife. French expeditions in the late 18<sup>th</sup> Century reported extensive burning in the foothills of the Wellington Range by Aboriginal people.

Soon after the observations of the French explorers, Wooraddy, a member of the nuennone band from Bruny Island, told Aboriginal conciliator George Augustus Robinson that:

'When the first people settle they cut down the trees, built houses, dug the ground and planted; that by and by more ships came, then at last plenty of ships, that the natives went to the mountains, went and looked at what the white people did, went and told other natives, and they came and looked also.'

The mountains from which they watched the activity may have been, or in all likelihood were, the mountains we now call the Wellington Range.

While the specifics of Aboriginal values and connection to kunanyi were not captured in the TASCAT decision, they are an undeniable reality.

It is also a matter of concern that the Wellington Park Management Plan will be up for review in two years, as we understand it. The Greens will be joining community groups watching very closely how this Government responds to the Wellington Park Management Plan review. We have already had the Tourism Industry Council's Luke Martin beating the drum for the developer and basically pleading with Government, the shill that he is, to do some more special favours for the proponent.

When you have a look at the TASCAT decision, it is very clear that a significant part of the reason this development did not fly is because of the robustness of the Wellington Park Management Plan. I want to remind members that in their report, *Pathway to Truth-Telling and Treaty*, Professors Warner and McCormack recommended that kunanyi be made an Aboriginal-owned and managed national park.

We will be watching any effort to distort the Wellington Park Management Plan in order to enable this development, which has fallen at every hurdle. It is unpopular and it has always been unpopular. It is not compliant with the protective measures in the Wellington Park Management Plan. It has failed on 18 of 26 grounds in the Tasmanian Civil and Administrative Tribunal.

It is a dog of a project that keeps having life breathed into it by the major parties in this place - that are dismissive of community feeling, disregard the Aboriginal connection to kunanyi, and ignore the fact that overwhelmingly, in and around Hobart, people want the mountain left just the way it is.

That is why we are moving this repeal bill. There is no need for the facilitation act anymore. We asked the Premier this morning to rule out any more enabling legislation for this developer, and he would not do it.

Mr Deputy Speaker, this project cannot stand on its own two feet without someone in government or some government agency propping it up or doing some special dodgy deal to give it life. We had the Premier running out an absolute furphy of a line this morning about access to the mountain. Is he so out of touch that he thinks people would rather pay \$50 or \$60 for a ticket to go from South Hobart to the pinnacle on a cable car, than get up there in a car or a bus? Access? That is a furphy. This cableway is not being put forward as an access solution. It is not being put forward as a climate solution. It is being put forward to profit from wildness and beauty.

What we took home from the Premier's answer this morning is that maybe, just maybe, we will see another abuse of parliamentary procedures, and another piece of legislation that facilitates this development not that I think it needs any more facilitation than what is already in the facilitation act. We are very concerned about the signalling from the Premier this morning to that proponent. We are concerned, and we will be watching very closely - as will many people in and around Hobart - about the management plan review.

It is striking listening to the Premier's answer this morning, listening to him talk about the stadium, that there is a lack of understanding and a disregard for the residents of nipaluna/Hobart. We do not want a stadium at Macquarie Point. I encourage the Premier to leave his office on the 11th floor occasionally while he is down here and talk to the locals. It does not matter how they vote: overwhelmingly people hate that stadium. It is dismissive of the people of Hobart to say, 'Here, have a stadium', in the same way as it is dismissive to say in his answer this morning that he thinks I am paraphrasing him. I am sorry, Mr Rockliff, you are not here to correct me, but he thinks most people would like to see a cable car. How on earth would he know?

Honestly, we see from the numbers of people who have made submissions to the Hobart City Council, to the facilitation bill when it was being consulted, that overwhelmingly people feel passionately about leaving the mountain just the way it is.

We do not have to have human footprints on every square millimetre of this planet. There are some places - there are many places - that just need to be left as wild as we can, because in this world, this damaged planet, that is a rare and precious thing.

We encourage the Premier, and Labor, to refocus on the Springs on kunanyi. There is a footprint there already. It has the most stunning views. You can stand at the Springs. You can see down the Channel. You can see over to Bruny and South Arm. You can see across to Storm Bay and as you look to the left, the Meehan Range, and up into the Midlands. The view from the Springs is magnificent.

We do not have to possess a mountain, encrust it with machinery in the interests of profit - and profit only - when we have a place there like the Springs, that is ready to go, and has the support of the majority of members - certainly on the previous Hobart City Council, and I posit that it would be the majority of members still now - who support good development at the Springs that provides access to the mountain and recreational experiences. You can buy a coffee, have a beer. Have a look at the Springs, because that will not divide the community in the same way that the cable car proposal has and continues to do.

We do not know yet if the proponents are going to appeal. We hope they call it quits, because the appeal will certainly cost them more money. For now, we celebrate a win, because a win is a win - and the opponents of the cable car have had a very significant win.

As I understand it right now - and Dr Woodruff and I wish we were there with them - that community of people who love the mountain just the way it is are celebrating in the foothills of kunanyi right now at Cascade Gardens - and so they should celebrate. On behalf of the Greens, I say again say thank you so much to that fantastic little community of people who gave it all - but still have more to give if they have to - to defend a place that is wild, beautiful and sacred to Aboriginal people, beloved by the people of nipaluna/Hobart, and people who come here as visitors and look at the backdrop to our city and are awestruck.

Mr Deputy Speaker, perhaps people who just drive down here every now and again from the north of the state might take that mountain for granted, I do not know - but surely of all the cities in the world we have one of the most spectacular natural backdrops, and we should keep it just the way it is.

We are moving to repeal the Cable Car (kunanyi/Mount Wellington) Facilitation Act, because it is unnecessary. The proponent has lost. There really is no way back from here, unless they get another special deal from government. We hope our colleagues understand that the cable car project is finished. It should not get one more moment of help from the Government - or from the Opposition. I know there are members of Labor who do not want to see a cable car up the mountain. That is what they say, for example, when they are out doorknocking in and around Hobart, a bit of hand-wringing, saying how worried they are about the cable car but then came in here and voted for the facilitation bill in 2017.

In politics, you always have to have conviction. If you are going to go out there and tell the locals that you do or do not support something, be straight with them. Say, 'look, I do not like it personally but if push comes to shove, I will vote for it because I am from the Labor Party. We do what we are told and we usually roll over and we usually do basically what the government of the day does when it comes down to inappropriate developments.'

Dr Woodruff and I very strongly commend this repeal bill to the House.

[5.41 p.m.]

**Mr BARNETT** (Lyons - Minister for State Development, Construction and Housing) - Mr Deputy Speaker, I appreciate the opportunity to share some remarks on behalf of the Government regarding the Greens' Cable Car (kunanyi/Mount Wellington) Facilitation Repeal Bill. In no surprise to those in this Chamber, the Government will not be supporting the bill. The Premier made that clear this morning.

He also made it clear that the Government has been a strong supporter of a cable car on kunanyi/Mount Wellington for a long time. The Government has supported growing the economy and creating more jobs for a long time. It has, for a long time, supported the merit of not only protecting our natural assets at the same time as growing our economy, but delivering a sustainable future for the mountain and for Tasmania.

We recognise the value of unlocking sustainable and sensible tourism opportunities in our natural areas. I would like to comment more about that if time allows. Of course, the Leader for the Greens has absorbed two-thirds nearly of the time we have to discuss and debate this particular bill.

The comments from the Premier this morning make it clear that as a government, as Minister for State Development, Construction and Housing, we support the merit of a cable car for a whole range of reasons. It is not just to grow the economy and support our visitor economy and create more jobs, but also to protect and support the natural asset of Mt Wellington. The Leader of the Greens belled the cat at the end of her remarks when she indicated 'keep it just the way it is'. The number of people using the road to access kunanyi/Mount Wellington keeps increasing each year. It is around 600 000, with the estimates for that to substantially increase in the years ahead and so we need to act; we cannot stand still.

We need to look at all the options, as the Premier made clear this morning. We will look at all the options and not rule anything in or out. I will outline some of the key points about the bill, which was supported in 2017 and I thank Matt Groom, the former minister for state development, for the portfolio I have now. I thank him for his leadership and the government at the time. The bill was supported by the Labor Party at the time. Ms White said the Labor Party has long been on the record stating that we support alternative modes of transport on Mt Wellington, including a cable car. It will be interesting to hear the contribution of state Labor today but the actual facilitation bill is neither project- nor proponent-specific. To suggest that it is wrong. It is a false allegation.

In terms of the cable car on kunanyi/Mount Wellington, it can showcase one of our natural, beautiful parts of Tasmania. It is a beautiful, natural landmark and most of us in this place would agree with that. A cable car would make kunanyi/Mount Wellington and its surrounds more accessible to locals and visitors alike. It would provide alternative access to the summit, helping to ease that increasing pressure on the road and, as I have indicated, some 600 000 visitors each year. It would improve seasonal access, particularly in winter when the Pinnacle Road is regularly closed to traffic. Seasonal access is something that has not even been mentioned during the debate this afternoon and improving the facilities and quality of the experience for visitors to the summit.

I have thoroughly enjoyed my visits to the summit, both in the car and on a push bike on a number of occasions. In fact, it was part of the journey in the Diabetes Tasmania Pollie Pedal

many years ago. It was a tough old ride to get up there but what a wonderful experience to get to the top.

We need to look at all the options on the table in terms of access to kunanyi/Mt Wellington. We want to support business opportunities and support the experiences on that mountain. We want to create jobs and grow our economy. I do not want to miss the opportunity to remind colleagues here, and indeed others, that the Tasmanian economy has been seen to be leading the nation again as a result of the CommSec State of the State report last month, meaning that Tasmania has led the nation in 10 of the last 11 quarters with a state ranking highly across a number of key economic indicators. The Premier indicated, yes, having regained that mantle as the best performing economy in the country. That is what we are on about as a majority Liberal Government.

A Labor-Greens government did the exact opposite when they were in power. That is something that Tasmanians do not forget; those 10 000 thousand jobs that were lost and Tasmania plummeting into recession.

In terms of the cable car opportunities and what it would deliver during construction and also once operational and in terms of support for the significant private sector investment in infrastructure, we support the private sector. We support growing our economy.

We support the natural kunanyi/Mount Wellington as a key destination and experience that supports visits to the second-most visited attraction in Tasmania. The existing legislation makes it clear that the idea for a cable car has been around for many decades. The Government took action in 2017.

It allows a planning application involving public land to be lodged and assessed without landowner consent, which was necessary due to the Hobart City Council's unwillingness to allow the current project to be assessed. It enables a cable car proponent to access areas of Wellington Park for necessary assessment and preliminary investigations needed to prepare a planning application. It also provides a mechanism for the Government to acquire public land, if required, in an open and transparent way. The act does not change the requirement for a cable car proponent to secure relevant planning and approvals, including those designed to protect Tasmania's natural cultural and heritage values, including those indigenous values that are represented on kunanyi/Mt Wellington.

As previously announced, if required, the Government would acquire that necessary public land to facilitate a cable car project on kunanyi/Mt Wellington. The act also clarifies that acquired land cannot be sold but remains part of the Wellington Park. We support that and continue to do so, as the Premier made very clear this morning.

In terms of public support, it is the view of the Government that there is significant public support across the state and the southern part of Tasmania, up until now.

**Ms O'Connor** - How on earth would you know?

**Mr BARNETT**- We will find out shortly whether it has bipartisan political support or not.

The TASCAT decision dismissed an appeal of the Mt Wellington cable car company's amended cable car proposal after the Hobart City Council decision to refuse the planning application. I understand the proponent's disappointment. My understanding is that they are considering their position, as they are entitled to do. Let us not forget that. In terms of their investment, no doubt it has been quite substantial. They are entitled to consider their position. We are about securing Tasmania's future and doing what is necessary to support further investment, jobs, growth, protecting our natural environment and supporting a sustainable future.

In terms of road access, it is very challenging indeed. With the increased numbers, the challenge keeps growing. For the Greens to suggest that it remains exactly the same, that is not an option. We need to consider all the options. As the Premier said this morning, we are not ruling anything in or out. What we do know is that the Greens have a track record of not supporting development -

**Ms O'Connor** - That is not true.

**Mr BARNETT** - Sustainable development. Not supporting our renewable energy projects.

**Ms O'Connor** - That is not true, except for Robbins Island.

**Mr BARNETT** - It goes on and on.

**Ms O'Connor** - Robbins Island is the only one.

**Mr DEPUTY SPEAKER** - Order.

**Ms O'Connor** - You could not lie straight in bed.

**Mr DEPUTY SPEAKER** - Order, Ms O'Connor.

**Mr BARNETT** - This is the reason why the Government holds a very strong position. The issue of sustainable transport remains, and does remain very important. It needs to be fit for purpose. It needs to be sustainable, and add to the enjoyment and the amenity of kunanyi/Mt Wellington. That is what we are on about. We want a sustainable solution well into the future. We support investment, growth, jobs, and opportunities. We have done that through the \$5.6 billion infrastructure program that we have supported year in, year out.

We support the EOI, including the tourism EOI process which has been enhanced in recent months in Tasmania's parks and reserves. We have plenty of examples of that since that was introduced in 2014 - the Maydena Bike Park in the Derwent Valley, the Blue Derby Pods ride in the north-east. Just a week or so ago, I was at Seven Mile Beach and Five Mile Beach with golfing champion, Matthew Goggin. There are plenty of opportunities to develop sensitively and sustainably in our Crown land parks and reserves.

We want to reduce pollution, solve road issues and effectively move people, resolving crowding. There needs to be a sustainable way forward. I have not heard any suggestions that are relevant in that regard.



In conclusion, I have had the opportunity to visit Cape Town in South Africa, and seen the benefits of that for that great town. In other parts of the world, in Switzerland -

**Ms O'Connor** - If you want to ride a cable car go to South Africa. Do you have to? Why?

**Mr DEPUTY SPEAKER** - Order.

**Mr BARNETT** - There are other examples: Whistler in Canada; Rio de Janeiro, the Sugarloaf Mountain; Palm Springs in California. There are plenty of examples. Tasmania can deliver that. We will continue to review all those options, continue to support a sustainable future and continue to support a growing economy creating more jobs.

**Ms O'Connor** - It is easy for you to say that because you do not live here and you do not care.

**Mr DEPUTY SPEAKER** - Order.

**Mr BARNETT** - We will not be supporting this bill.

[5.53 p.m.]

**Ms DOW** (Braddon - Deputy Leader of the Opposition) - Mr Deputy Speaker, I rise this afternoon to speak on this repeal bill. I say from the outset that Labor will not be supporting the Greens repeal bill.

**Ms O'Connor** - Of course not.

**Ms DOW** - That is in line with our support for the original bill in 2017.

**Ms O'Connor** - I bet Ms Haddad doorknocks and says she does not like it still.

**Mr DEPUTY SPEAKER** - Order.

**Ms DOW** - What it highlights is the ability of the Greens to come here each Wednesday and use this as an opportunity to wedge us.

**Ms O'Connor** - Are you serious? Do you think this is about you?

**Mr SPEAKER** - Order.

**Ms DOW** - All these claims are disingenuous in my view.

**Ms O'Connor** - You are pathetic. We are representing thousands of people -

**Mr SPEAKER** - Order, Ms O'Connor.

**Ms DOW** - A decision was made last week and that is obviously why the Greens have brought this item before us today in response to the decision that was made by TASCAT.

**Dr Woodruff** - That is the most narcissistic thing I have ever heard.

**Mr SPEAKER** - Order.

**Ms DOW** - I also take heed of the reference to the north and north-west people not having an appreciation of the values held by those in the south of our state. I would take that even further and say that the Greens do not have an appreciation of what the values of the people of the north-west are - the importance of the traditional industries in the north-west. Their continued opposition to those -

**Ms O'Connor** - Yes. We never stand up for the Tarkine.

**Mr SPEAKER** - Ms O'Connor, some respect please. As I said earlier today, everybody has a different view of different things in this House and they are allowed to express it. That is our democracy. They should not be interrupted while they are expressing their view. Thank you very much.

**Ms DOW** - I guess there is that lack of insight of the importance of those industries to our regional communities, to our regional economies, and to people's livelihoods in those communities. It is a bit hypocritical to come in here and start saying that northern members do not have an appreciation of what goes on here in the south. I am speaking on this bill not as a northern member, but as the shadow minister for planning, because this is related to planning legislation. That is why I am speaking on this today.

The other point I want to make in the very short time remaining is in relation to the Cradle Mountain cableway, which the Government has been very quiet about of late. My understanding is that the ball is in their court when it comes to the funding from the federal government. This project was meant to be delivered and operational in the north-west by 2019. We have not seen that progress at all. It is an important project for our region's economy, for tourism, and for easing the traffic and footprint on the Cradle Mountain area - an iconic part of Tasmania in the north-west that has a whole raft of values associated with it.

This is an important project that was born out of tourism leaders and local government leaders in the north-west of the state who had passion, drive and commitment to that site reaching its full potential, and to it in fact becoming a world-class, iconic tourism attraction. A very important part of that was the development of a cableway to Cradle Mountain. I would like the Government to provide an update to the House on where that is at, and why there has been a hold-up with it.

I understand there is a report to go to Cabinet. When will people be made aware of what and how that project will progress? I look to the minister, and he is looking down. It is an important project for the north of the state, and for the whole state, and it has stalled under a lack of leadership from this state Government.

Mr Speaker, I look forward to the Government updating the House on the adjournment about the stages of that project, and when we can expect to see it commence - 2019 is a long time ago, and there have been significant commitments made. It is another example of an announcement made by a Liberal government that they have not been able to deliver yet, with little to no explanation why. As I said, it is a very important project.

The last remark that I want to put on the record is that I note Ms O'Connor's acknowledgement of the people in the community who have made their views known about

the Mt Wellington cable car development. However, those remarks could also have been made on the adjournment without this repeal bill coming to the House today.

As I said, Mr Speaker, we will not be supporting it.

[5.58 p.m.]

**Ms O'CONNOR** (Clark - Leader of the Greens) - Mr Speaker, that was a completely pathetic contribution from the Deputy Leader of the Opposition. We did not come in here with this bill, which has been sitting on the books for I reckon six or seven months, because we want to wedge Labor.

We came into the House with this bill because last week, TASCAT brought down a decision which upheld the rejection of the proposal by the Hobart City Council. We moved the repeal bill because, in 2017, enabling legislation was brought into this place for a specific project and a specific proponent, no matter what rubbish we hear from the minister. We did this to represent our communities. We did this because there is a facilitation act on the books that should not be on the books anymore. Ms Dow is completely wrong.

We brought this bill on. We planned to bring this bill on once that planning process was done so the House could have an opportunity to correct its mistake. Clearly, it is not going to correct its mistake, because in this place, on both sides of the House, you have skills for corporate and private developer interests.

**Time expired.**

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

**The House divided -**

**AYES 3**

Ms Johnston  
Ms O'Connor  
Dr Woodruff (Teller)

**NOES 19**

Mrs Alexander  
Ms Archer  
Mr Barnett  
Dr Broad  
Ms Butler  
Ms Dow  
Mr Ellis  
Mr Ferguson  
Ms Finlay  
Ms Haddad  
Mr Jaensch  
Ms Ogilvie  
Mr Rockliff  
Mr Street  
Mr Tucker  
Ms White  
Mr Winter  
Mr Wood (Teller)  
Mr Young

**Second reading negatived.**

**RETAIL LEASES BILL 2022 (No. 30)**

**In Committee**

**Resumed from above (page 66).**

**Clause 6 -  
Interpretation**

**Ms ARCHER** - I think I answered Ms Butler's question on the definition of turnover.

**Ms Butler** - Yes.

**Ms ARCHER** - I got through that on clause 6 because we were dealing with everything at once.

**Dr WOODRUFF** - I do not have any problem, but a question about the third amendment. When you were explaining the new definition, minister, I think you said that the stakeholders said that they were - the argument to change the definition of retail premises was because you or the stakeholder was uncertain in its application. I wonder if you had an example of what the problem with the application of it was. I did not understand. I have a second question before you get up. Part (a) is

wholly or predominantly for the carrying on of any one or more of the businesses, or class of businesses, prescribed for the purposes of this definition (whether or not that business, or class of businesses, is carried on in a retail shopping centre);

That is a very specific and particular addition that was not in the existing definition in the bill, and I wondered why that needs to be prescribed in that sort of detail.

**Ms ARCHER** - Thank you for the question. The first part relates to the list approach that we are now taking instead of the principle-based definition of retail premises. What this means is that instead of a broad, principles-based definition of what is a retail premises, the definition will be defined by a list of specific types of shops included in the regulations and, in addition, any premises used for the carrying on of any businesses in a retail shopping centre will be taken to be a retail premises. This will provide for greater clarity and certainty to the types of business premises the bill will apply to and is the approach taken in New South Wales.

The list of businesses is also intended to be similar to the list used in New South Wales. As a result of our consultation, the New South Wales approach was preferred by the stakeholders. That was a request, and a list approach is used in a current code that we have as well in Tasmania - so, consistency.

The stakeholders were concerned that the broad definition of 'retail premises' caught too many retail premises that may have conducted retail sales only as a small part of their business.

They were also concerned about the principles-based approach not providing enough certainty for individual scenarios.

The stakeholders also considered that many lease arrangements not currently within the scope of the code would be captured by the principles-based definition and that this would have required many leases to be withdrawn. It is the Law Society and the Property Council type of stakeholders that support the list-based approach to define 'retail premises'. Therefore, to follow on with this second part in relation to the words, 'whether or not that business, or class of businesses, is carried on in a retail shopping centre', that is taken from New South Wales, which is the approach that the stakeholders wanted. That is the reason for that wording, and it creates that certainty.

**Dr WOODRUFF** - I am intrigued. It would obviously seem that the sort of businesses that are in a shopping centre like so many retail businesses would be a retail business so it feels odd to have to separate that out.

**Mr CHAIR** - Sorry, you have already spoken twice.

**Amendments agreed to.**

**Clauses 6 to 7 agreed to.**

**Clause 8 -**

Leases to which this Act does not apply

**Ms ARCHER** - Similarly, I have three amendments to clause 8, if I can deal with them together in sequential order.

**First amendment**

I move the following amendment -

Page 18, subclause (1), paragraph (d),

*Leave out* "subject to subsection (2)"

*Insert instead* "subject to subsections (2) and (3)".

Chair, under the changes, the new laws within the bill will not apply to retail leases entered into or renewed before the commencement of the section. That is my explanation for that small change.

**Second amendment**

I move the following further amendment -

Page 18, subclause (2), paragraph (a).

*Leave out* the paragraph.

*Insert instead* the following paragraph:

- (a) subject to subsection (A), continue to apply to a lease, within the meaning of those regulations, referred to in subsection (1)(d) and to which those regulations applied immediately before the commencement of this section; and

In relation to this second amendment, under the amendments any retail lease entered before the bill commences will apply the 1998 code and not the new laws under the bill. The five-year changeover date has been removed under the amendments meaning that all pre-existing leases will continue under the provision of the code until terminated or expiration.

### **Third amendment**

I move the following further amendment -

Page 19, after subclause (2)

*Insert* the following new subsection:

- (A) Despite subsection (1), the regulations may prescribe that any one or more of the provisions of this Act apply in respect of a lease, or class of leases, specified in subsection (1)(d).

By way of explanation, the last of the amendments to clause 8 provides that regulations may provide that provisions of the law may apply to a lease that is otherwise governed by the existing law. They are fairly straightforward amendments.

**Amendments agreed to.**

**Clause 8 as amended agreed to.**

### **Clause 9 -**

Leases to which Act applies

**Ms ARCHER** - I have two amendments which I seek to deal with together.

#### **First amendment**

I move the following amendment -

Page 19, subclause (1) paragraph (b).

*Leave out* the paragraph.

This amendment will mean that after the commencement of the bill its provisions do not apply upon a renewal of a lease that was entered into before commencement.

## **Second amendment**

I move the following further amendment -

Page 20, subclause (4).

*Leave out* the subclause.

This amendment will mean that the bill's provisions will not apply to all leases after five years from the bill's commencement.

Again, two straightforward amendments.

**Ms BUTLER** - Chair, there were potentially going to be large problems with having the two different stages of lease arrangement, so we support these amendments.

**Amendments agreed to.**

**Clause 9 as amended agreed to.**

**Clauses 10 to 28 agreed to.**

**Clause 29 -**  
Security deposits

**Ms ARCHER** - I only have one amendment for this.

I move the following amendment -

Page 37, subclause (2), after "the tenant"

*Leave out* "in an interest-bearing account".

This amendment has been made so that a security deposit held by the landlord on behalf of a tenant does not necessarily need to be in an interest-bearing account. This change has been made following discussions with the Property Council. They outlined that this change would better reflect current banking practices.

**Dr WOODRUFF** - Chair, on the face of it, it seems that all the favour goes to the landlord. If a security deposit is made over a period of a lease, it could be many years. That could be a significant financial disadvantage for the tenant because they would have otherwise used that money at the current rate of interest or invested that money in their own interest-bearing account and invested it there. Given the rate of interest, that sounds as though the advantage is all in favour of the landlord and not the tenant. I do not know what disadvantage it would be to the landlord to put it in an interest-bearing account.

**Ms Archer** - It is simply to reflect current practices. They do not always put it in that type of account. That is what I am advised. I understand the point you make.

**Dr WOODRUFF** - I can imagine the Property Council would like to keep the current arrangements because it sounds as though that would suit property owners, not necessarily tenants who take out leases.

**Ms Archer** - Except that they have nothing to gain by it either. Sorry, we should not be discussing it back and forth but -

**Dr WOODRUFF** - I do not understand why they would not put it in an interest-bearing account. All accounts are interest-bearing in some degree or another. It does not specify the amount of interest that has to be borne but how would they put it in an account which does not bear interest? It does not make sense to me.

**Amendment agreed to.**

**Clause 29 as amended agreed to.**

**Clause 30 agreed to.**

**Clause 31 -**

Retail leases to be in writing and signed

**Ms BUTLER** - Chair, this was information provided to us by a stakeholder about retail leases to be in writing and signed before being entered into. Both landlords and tenants face substantial penalties if they enter into a lease without it being signed. However, this clause will produce potentially uncommercial results in many cases. For example, one party may simply refuse to sign a lease, even though it is otherwise compliant with the agreement reached, in which case, can both parties be fined or only the party who refuses to sign?

Also, what if the lease is incorrect, if there is a problem with the lease itself in that it does not reflect the commercial agreement reached between the parties or contain the information in their disclosure statement?

**Ms Archer** - Sorry, what was that second question again?

**Ms BUTLER** - What if the lease is incorrect? There is an actual problem with the lease in itself in that it does not reflect the commercial agreement between the parties or contain the information in the disclosure statement.

Further, business effectiveness may require that the tenant occupy the premises before signing the lease, for example where the tenant has exercised an option but the parties have agreed to enter into a wholly new lease, perhaps in cases where a new landlord has purchased the premises. In this case, the tenant will be deemed to have entered into the lease under the definition in section 7, yet both the landlord and the tenant will face substantial penalties. There has been a query about whether there needs to be a penalty for breaching that clause. Could the minister run through that for us?

**Ms ARCHER** - A contract in writing containing all details seeks to provide a certain and fair outcome for both parties. It is appropriate that there be a penalty attached to encourage compliance. That is in line with some other jurisdictions.



Importantly, if a lease is not in writing or not signed, it is not invalid under the bill - but in that case, if both parties have not signed, then they do leave themselves open to being fined under the bill. The Victorian act also provides that a lease must be in writing, and signed by all parties to it. It also has a penalty provision, so we are not unlike the Victorian act. Retail lease legislation in other jurisdictions such as New South Wales, the Northern Territory and Queensland can be taken to have been entered into when both parties sign the lease instrument. If one party refuses to sign on a particular occasion, then that would be a key consideration to enforcement action.

**Clause 31 agreed to.**

**Clauses 32 to 34 agreed to.**

**Clause 35 -**

Recovery of outgoings from tenants

**Ms ARCHER** - In relation to clause 35, I have five amendments, which I will deal with sequentially.

**First amendment**

I move -

Page 42, subclause (1), paragraph (a), after "landlord in the"

*Leave out "retail lease"*

*Insert instead "landlord's disclosure statement"*

I will say something about that in a minute.

**Second amendment**

I move the following further amendment -

Page 43, subclause (2), paragraph (a), after "specified in the"

*Leave out "retail lease"*

*Insert instead "landlord's disclosure statement"*

These first two amendments to clause 35 will mean that the details of the nature of outgoings are only to be specified by the landlord in the landlord's disclosure statement, rather than also in the retail lease, which was the case previously.

**Third amendment**

I move the following further amendment -

Page 44, subclause (4), paragraph (a), after "retail premises are"

*Leave out "located"*

*Insert instead "located, other than any capital expenditure -*

- (i) required for the tenant's proposed use and occupation of the building that is the retail premises, or the building in which the retail premises are located, that the tenant has agreed in writing to undertake at the tenant's own cost; or
- (ii) relating to the fit-out of the building that is the retail premises, or the building in which the retail premises are located, that the tenant has agreed in writing to undertake at the tenant's own cost; or
- (iii) relating to the maintenance or repairs of any prescribed essential building services, if the retail lease requires the tenant to undertake the repair or maintenance of those prescribed essential building services at the tenant's own cost, or partially at the tenant's own cost;

Chair, the third amendment to clause 35 will mean that a tenant will be liable for outgoings in relation to capital expenditure on the retail premises, if the tenant has agreed in writing to pay for the capital works or a fit-out or the maintenance or repairs of any essential building services.

#### **Fourth amendment**

I move the following further amendment -

Page 45, same subclause, paragraph (d)

*Leave out the paragraph'*

Chair, this amendment will mean that any contribution by a landlord to promotion and advertising can be an outgoing to which the tenant can be liable.

#### **Fifth amendment**

I move the following further amendment -

Page 45, subclause (4), paragraph (g), subparagraph (ii) after the word "land"

*Insert the word "not"*

Chair, this amendment is already tabled in the House, and it is to correct a minor drafting error in this clause, where the word 'not' has been omitted from this paragraph.

The subparagraph will now read -

- (ii) land not on which the building, of which the retail premises form a part, is located.

Members will recall that was the technical error that needed changing that I referred to in my second reading speech.

**Amendments agreed to.**

**Clause 35 as amended, agreed to.**

**Clause 36 -**

Estimates of outgoings and statements of outgoings

**Ms ARCHER** - I have three amendments to clause 36, which again I will deal with sequentially.

**First amendment**

I move the following amendment -

Page 46, subclause (1), paragraph (b) after "term of the lease"

*Leave out* ", at least one month before the start of that accounting period"

Chair, this amendment will mean that a written estimate of outgoings provided by a landlord to a tenant does not need to be given specifically at least one month before the start of the landlord's accounting period. Such arrangements will be left to the terms of an individual lease.

**Second amendment**

I move the following further amendment -

Page 46, subclause (4)

*Leave out* "Within 5 days after"

*Insert instead* "After"

You probably could just leave out 'within 5 days'; it is just a drafting wording. This amendment will mean that the written statement of outgoings prepared by the landlord does not need to be provided to the tenant within five days after preparation. Such arrangements will be left to the terms of an individual lease.

**Third amendment**

I move the following further amendment -

Page 46, subclause (5)

*Leave out* the subclause.

This amendment will mean that the tenant does not have to pay the total amount of the outgoings contained in the written statement within 30 days after receiving it. Such arrangements will be left to the terms of an individual lease. These changes have been made to this clause to provide more flexible arrangements for the payment and the adjustment of outgoings. These changes involve the removal of specific timing requirements.

**Amendments agreed to.**

**Clause 36 as amended agreed to.**

**Clauses 37 to 42 agreed to.**

**Clause 43 -**

Review of valuations of market rent

**Ms BUTLER** - This an area we raised in our second reading speech contribution, and I do not believe it has been changed at all. It introduces the second-tier evaluations, which may be to parties challenging or threatening to challenge otherwise valid evaluations in the hope that the other party will agree to a different rental amount.

We believe or understand that evaluations are costly. We gave the example that a wealthy tenant could seek a second round of evaluation, thereby forcing the smaller landlord - i.e., a mother and father may own a store in a supermarket, and they may have quite a corporation-style tenant. The wealthy - potentially national - tenant could seek a second round of evaluation, thereby forcing a smaller landlord to give in, as such, to avoid the cost of the second-tier evaluation. We have always seen that as a bit of a problem.

Also, there is a problem with valuers. We simply do not have enough people to undertake that work. We do note that there have been changes made around the timing of valuations; if they are not done within a certain time there is no penalty in place, which is good. If the minister could talk that through with us - why the existing valuation will not stand, why we need to have that second-tier valuation system in place.

**Ms ARCHER** - Yes, I recall Ms Butler questioning the - in her words - 'expensive and necessary re-valuation' if the tenant and landlord disagree. I think you also asked why a professional valuation is not enough.

**Ms Butler** - Yes, on the first valuation.

**Ms ARCHER** - I did answer that in summing up but I am happy to put it on the record again at the Committee stage. The bill recognises that a retail lease may provide for rent to be calculated or reviewed by the current market rent or it may provide an option to renew or extend a lease at the current market rent. I will jump from clause 42 - we are dealing with 43.

In recognising that such valuations are pivotal to decisions regarding, for instance, the renewal of a lease, the bill under clause 43 enables a landlord or a tenant to dispute a market rent valuation within 21 days. On such occasions, the party may apply to the director for a review of that market rent valuation. I think your question is whether the current section is drafted fairly. They can certainly dispute the valuation.

**Ms Butler** - I think having to share the cost of the second valuation is different interstate.

**Ms ARCHER** - In clause 42, they do share the cost.

**Ms Butler** - Yes, they share it.

**Ms ARCHER** - Yes. Parties cannot act unconscionably in this situation. Obviously, that is unconscionable conduct so it can be pursued by way of proceedings. Clause 42, as I said:

- (2) If a landlord and a tenant do not agree on what the amount of the current market rent is to be, it is to be determined by a valuation carried out by a specialist retail valuer appointed by -
  - (a) an agreement between the landlord and the tenant; or
  - (b) if there is no agreement, the Director.

If there is no agreement, the Director of Consumer Affairs and Fair Trading and a specialist retail valuer then undertakes the evaluation of current market and is to provide an evaluation in writing, including the basis of, and the reasons for, the valuation. They share the cost of that in equal shares. As I said in my summing up, that is considered to be a fair arrangement in those circumstances to share it.

**Clause 43 agreed to.**

**Clause 44 -**

Exercise of options to renew retail leases.

**Ms ARCHER** - I move the following amendment -

Page 60, after subsection (10)

*Insert* the following new subsection:

- (A) Despite subsection (10), if a tenant or a landlord initiate an independent valuation, in accordance with section 42, under subsection (9) and the period within which an option may be exercised expires while the independent valuation is being carried out, the period to exercise that option is taken not to expire until one month after the tenant or landlord receives a valuation of current market rent in accordance with section 42(6).

This amendment relates to the exercise of options to renew retail leases. The new subclause specifies clearly that if an independent valuation of market rent is initiated by other parties under clause 42, the meaning of the current market rent, the period in which to exercise the option expires while the valuation is being carried out, then the exercise period is extended until one month after valuation is received. That is, again, to allow some flexibility to ensure that period is covered while the parties negotiate or to ensure that they receive that independent valuation in time.

**Amendment agreed to.**

**Clause 44 as amended agreed to.**

**Clauses 45 to 48 agreed to.**

**Clause 49 -**

Tenants to be compensated for disturbances.

**Ms ARCHER** - Chair, this is a fairly simple one on pages 64 to 66.

I move the following amendment -

*Leave out* clause 49.

I propose to remove this clause entirely and replace it. Clause 49 concerns compensation arrangements to tenants in the event of disturbances. Stakeholders have indicated that the existing compensation provision in the code is preferable to that within the bill. Clause 49 in the bill is replaced with a new clause. Outlined under new clause (b), which I will provide detail of towards the end of Committee, the clause (b) will primarily mean that a landlord will not be able to limit liability if they act unconscionably or terminate a lease dishonestly.

**Dr WOODRUFF** - My only question is: why was it not written up this way in the first place? What was the rationale for making the change away from the code, which is the existing arrangement? Is that correct?

**Ms Archer** - Because what is to be inserted is preferable.

**Dr WOODRUFF** - I am not talking about the amendment, but the underlying bill that was debated. The language that is in here at the moment that we are amending by removing it: what was the rationale for making the change to put this in here? Was it based on another jurisdiction? Was it based on a specific stakeholder's request? It is a big change. Where did it come from?

**Ms Butler** - The stakeholders said the existing code is heaps better.

**Ms ARCHER** - I answered it in my last line when I said that new clause (b) would mean that the landlord will not be able to limit liability if they act unconscionably or terminate a lease dishonestly. What it rectifies is exactly that.

**Dr WOODRUFF** - Was clause 49 in the bill, which we are removing through this amendment, drafted by OPC on instruction just in general about doing a replacement to the code? Since no one seems to like it and they prefer the existing code, why did this get put in here? Was it a particular stakeholder wanting to do it?

**Ms ARCHER** - The intention was to simplify arrangements then, obviously, it was further consulted. We have ensured now that the issue that requires clarification is that they are not able to limit liability if they act unconscionably. I do not have it here whether it is a Law Society request but it sounds like one. I stand to be corrected on that. Certainly, the new

clause (b) is far more specific in relation to tenants' rights as well and what the landlord must compensate a tenant for. It clearly states that.

**Dr Woodruff** - Was it perhaps an attempt to simplify an existing code but it has ended up missing something really important so we are going to go back to that?

**Ms ARCHER** - It was an attempt to simplify in relation to 'unconscionable conduct'.

**Ms Butler** - Section 23 of the Fair Trading Code of Practice Retail.

**Clause 49 negatived.**

**Clauses 50 to 55 agreed to.**

**Clause 56 -**

Tenants may request landlord's consent to assign retail lease

**Ms ARCHER** - I move the following amendment

Page 75, subclause (3), after paragraph (d).

*Insert* the following paragraph:

- (e) if the assignment is in connection with a lease of retail premises that are to continue to be used for the carrying on of an ongoing business, the business records for the previous 3 years or such shorter period as the tenant has carried on the business at the retail premises.

Chair, the amendment in relation to this clause and the first amendment to clause 57 to come is to relocate existing paragraph 57(1)(d) to clause 56. This means that if a tenant is requesting the landlord's consent to assign a retail lease and the proposed assignment is in connection with a lease of retail premises that are to continue to be used for the carrying on of an ongoing business, the business records for the previous three years or such shorter period as the tenant carried on the business at the retail premises must be provided to the proposed assignee before such a request is made to the landlord.

**Amendment agreed to.**

**Clause 56 as amended agreed to.**

**Clause 57 -**

When landlords can withhold consent to assignments

**Ms ARCHER** - I have two amendments to clause 57 which I will deal with sequentially.

**First amendment**

I move the following amendment -

Page 77, subclause (1), paragraph (d).

*Leave out* the paragraph.

Clause 57 deals with when landlords can withhold consent to assignments. The amendment is to remove paragraph 57(1)(d) as it has been relocated to clause 56. This will mean that a landlord will not be able to withhold consent to an assignment on the basis that the tenant has not provided the proposed assignee the relevant business records.

### **Second amendment**

I move the following further amendment -

Page 78, subclause (3) after "refuse to consent to".

*Leave out* the words "the assignment"

Insert instead "a sublease".

Chair, this amendment is to provide that a landlord, provided it is contained within the retail lease, only has absolute discretion to consent or refuse to consent to a sublease of the retail lease, rather than an assignment of a retail lease more broadly.

### **Amendments agreed to.**

#### **Clause 57 as amended agreed to.**

### **Clause 58 -**

Protection of assignors

**Ms ARCHER** - I move the following amendment -

Page 78, subclause (1) paragraph (a)

*Leave out* "section 55(3)"

*Insert instead* "section 56(3)"

This is the other minor editing error that I referred to in my second reading speech. Clause 58(1)(a) provides that this clause applies if a tenant gives a proposed assignee the information and documents referred to in section 55(3). This amendment is to remove 'section 55 (3)' and insert 'section 56 (3)'.

Clause 58 provides that an assignor giving up a lease is able to pass their obligations under the lease to the proposed assignee or the new occupant of the leased premises.

### **Amendment agreed to.**

#### **Clause 58 as amended agreed to.**



**Clauses 59 to 76 agreed to.**

**Clause 77 -**

Limited right of representation

**Ms BUTLER** - Chair, I will read this clause for the record:

At a mediation conference, each party to the retail tenancy dispute –

- (a) must conduct the party's own case; and
- (b) may be represented by an Australian legal practitioner or an agent approved by the mediator only if –
  - (i) the party is a corporation; or
  - (ii) the mediator is satisfied that the Australian legal practitioner or the agent should be permitted to represent the party.

This was raised with me by the Law Society. The example given to me would be that an owner of an outlet potentially might have an issue with mediation. If they went into mediation, a corporation would be able to be represented by an Australian legal practitioner or an agent approved by the mediator. However, if you are not a corporation, you do not immediately have the same access to that legal representation. It does not look fair.

I will give you an example of, say, Gloria Jean's, I'm not saying Gloria Jean's would do this, but if there was a premises' owner and they wanted to lease out to Gloria Jean's and there were problems with that mediation, Gloria Jean's would be naturally entitled to have legal representation where the owner of the building may not. That could be vice versa, depending on who the corporation is. That was raised with me by the Law Society.

I know that there is a clause there that the mediator can actually tick off, on whether or not the non-corporate entity or party can have legal representation but why do they not have the same equal representation from the get-go? If that could be explained.

**Ms ARCHER** - The short answer is a corporation is not a natural person, so they need to have representation. I am advised that it was the Law Society of Tasmania that considered the bill only provides for corporations to have an automatic right to representation at mediation. That is quite distinct from what your advice is. This means that an individual landlord could be required to face a legal dispute when their tenant is legally represented and vice versa. You have talked about sometimes the landlord is a smaller entity or a mum-and-dad type business owner to a large corporation tenant. This was following representations from the Law Society in April, that the changes were made to the bill to specifically mention an Australian legal practitioner, as well as an agent of a party.

By its very nature, a corporate body must be represented by a natural person and, therefore, an agent, including a legal practitioner, is appropriate. The mediator can also allow for representation for other parties if the mediator is satisfied that an Australian legal practitioner or the agent should be permitted to represent the party. In my experience, where

there is that potential imbalance, that will always be recommended. It is up to the other party to then take them up on that offer or not but it is always, in my recollection, offered when the other party has legal rep.

The provision provides again 'discretion to the mediator to allow a party to be represented by a legal practitioner or another agent. Mediators are likely to have the issue of equity front and centre when determining whether legal representation should be allowed. The bill's provision is similar to the Queensland legislation. Theirs is at section 57, which provides that:

At the mediation conference, each party to the retail tenancy dispute may be represented by an agent approved by the mediator, only if, (a) the party is a corporation or, (b) the mediator is satisfied an agent should be permitted to represent the party.

**Clause 77 agreed to.**

**Clauses 78 to 84 agreed to.**

**Clause 85 -**  
Regulations

**Ms ARCHER -** Chair, I move the following amendment -

Page 100, subclause (8), paragraph (a), after "Act into operation"

*Insert instead* "including, but not limited to, the adjudication and determination of a retail tenancy dispute under Part 11 of the Act."

This clause outlines what the associated regulations to the bill might cover. It provides that the regulations may provide for saving or transitional matters necessary, which includes, but is not limited to, the adjudication and determination of a retail tenancy dispute under Part 11 of the act. This part of the bill could, subject to further consultation, be prescribed as applying to existing leases that would otherwise continue to operate indefinitely under the laws of the code.

**Amendment agreed to.**

**Clause 85 as amended agreed to.**

**Clause 86 agreed to.**

**Clause 87 -**  
Legislation rescinded

**Ms ARCHER -** I move the following amendment -

Page 101, omit the clause.

The amendment to remove the clause which would rescind the Fair Trading (Code of Practice for Retail Leases Tenancies Regulations 1998. This is because these regulations would

continue to apply from the date of the royal assent or upon proclamation if the royal assent occurs after 31 December 2022 under the amendments made to clause 2.

**Clause 87 negatived.**

**New clause A -**

Adjustments to contributions to outgoings

**Ms ARCHER** - Chair, I move the following amendment -

New clause A to follow clause 37.

**A. Adjustment of contributions to outgoings.**

- (1) If the finalised report of an auditor, provided to a landlord and tenant under section 37(4)(b), states that the outgoings, as specified in the written estimate of outgoings provided to the tenant under section 36(1), have not been expended and charged, in accordance with the estimate and relevant retail lease, there is to be an adjustment between the landlord and tenant for the relevant accounting period during the term of the retail lease to take account of any underpayment or overpayment by the tenant in respect of outgoings during that accounting period.
- (2) An adjustment of outgoings under subsection (1), in respect of an accounting period, is to take place -
  - (a) within one month after the landlord gives the landlord gives the tenant the written estimate of outgoings under section 36(1) for the accounting period; or
  - (b) within 4 months after the end of the relevant accounting period -  
  
whichever is earlier.
- (3) If the finalised report of an auditor, provided to a landlord and tenant under section 37(4)(b), states that the outgoings, as specified in the written statement of outgoings provided to the tenant under section 36(4), have not been expended, and charged, in accordance with the statement and the relevant retail lease, there is to be an adjustment between the landlord and tenant for the relevant accounting period during the term of the retail lease to take account of any underpayment or overpayment by the tenant in respect of outgoings during that period.
- (4) An adjustment of outgoings under subsection (3) in respect of an accounting period is to take place -

- (a) within one month after the landlord gives the tenant a copy of the written statement of outgoings under section 36(4) for the accounting period; or
- (b) within four months after the end of the relevant accounting period -

whichever is earlier.

The amendment inserts a new clause after section 37(5) to provide for arrangements regarding the adjusting of contributions to outgoings. If an auditor finds that estimated outgoings were not actually expended by the landlord during a period, there is to be an adjustment to take account of any underpayment or overpayment by the tenant. The adjustment is to take place within one month after the estimate has been provided by the landlord or within four months after the end of the relevant accounting period, whichever is earliest. That is really the direct wording of the new clause itself being quite self-explanatory.

**New clause A to follow clause 37 agreed to.**

**New Clause B -**

**Ms ARCHER** - I move the following amendment to insert a new clause B to follow clause 48:

**B. Compensation**

- (1) A landlord is to compensate a tenant if the landlord -
  - (a) inhibits access of the tenant to the retail premises rented by the tenant in any substantial manner; or
  - (b) takes any action other than action required under any legislation that would substantially alter or inhibit the flow of customers to the retail premises; or
  - (c) causes or fails to make reasonable efforts to prevent or remove anything which adversely affects the tenant's trading; or
  - (d) fails to have rectified, as soon as practicable, any breakdown of plant or equipment -
    - (i) which is under the landlord's care and maintenance; and
    - (ii) the breakdown of which causes a loss of profits to the tenant; or
  - (e) acts in a manner which, in all the circumstances, is unconscionable; or

- (f) terminates a retail lease dishonestly, maliciously, or for a purpose that is not genuine; or
  - (g) in relation to a retail shopping centre, fails to take reasonable steps to ensure the cleaning, maintenance or repair of the retail shopping centre, including any common area; or
  - (h) fails to take reasonable steps to ensure that the retail premises are kept in good order and repair; or
  - (i) relocates the tenant's business to other premises during the term of the retail lease, or any renewal of it; or
  - (j) fails to take reasonable steps to ensure that any defect in the retail shopping centre or retail premises is rectified; or
  - (k) causes the tenant to vacate the retail premises before the end of the retail lease, or any renewal of it, because of any extensions, refurbishment or demolition.
- (2) A provision in a retail lease that purports to limit liability for compensation in circumstances referred to in subsection (1)(a), (b), (c), (d) or (g) is void, except where -
- (a) before the execution of the retail lease, the landlord brings the specific disturbance to the tenant's quiet enjoyment during the term or currency of the retail lease, to the tenant's attention; and
  - (b) there is a clause in the retail lease that specifies a formula for compensation in the event of that specific disturbance occurring.
- (3) A provision in a retail lease that purports to limit liability for compensation in the circumstances referred to in subsection (1)(e) or (f) is void.
- (4) The enlargement of a retail shopping centre, or a change in its tenancy, is not of itself a ground for compensation under this section.
- (5) The amount of compensation payable under this section is the amount that is -
- (a) agreed between the landlord and tenant; or
  - (b) if there is no agreement between the landlord and tenant, determined under Part 11 of this Act.

Chair, the amendment exerts a new clause 49 relating to compensation, assuming the removal of the existing clause 49 is agreed to, which it was.

Under the amendments, the landlord is liable to pay to a tenant compensation for specified situations that arise during the term of the lease. For example, a landlord must compensate a tenant if they terminate a retail lease dishonestly, maliciously or for a purpose that is not genuine, or if they fail to take reasonable steps to ensure that the retail premises are kept in good order and repair.

The other key element of this clause is that a lease cannot purport to limit liability to pay compensation in specific circumstances unless, before the lease was entered into, the landlord informed the tenant of the likelihood of the specific disturbance, and the lease provides a formula for how they will be compensated for that disturbance. This is limited to specific circumstances referred to in subparagraphs (1)(a), (b), (c), (d) and (g), so that liability cannot be limited under the law where the landlord, for instance, acts unconscionably, which is at subparagraph (e), or terminates the lease dishonestly, which is at subparagraph (f).

#### **New clause B agreed to.**

#### **New Clause C -**

**Ms ARCHER** - I move the following amendment to insert a new clause C, to follow clause 86.

#### **C. Code of Practice Regulations continue in force**

(1) In this section -

**"Code of Practice Regulations"** means the *Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998* that -

- (a) were made under the *Fair Trading Act 1990*; and
- (b) were taken to be regulations, made and notified in the *Gazette* on 1 January 2011, in accordance with section 49 of the *Australian Consumer Law (Tasmania) Act 2010*; and
- (c) were continued in force in accordance with section 3(2) of the *Repeal of Regulations Postponement Act 2021*.

(2) The Code of Practice Regulations in force on the day on which this section commences -

- (a) are taken to be regulations made for the purposes of this Act; and
- (b) remain in force until rescinded under this Act.

Chair, put simply, the amendment provides that the existing Fair Trading Code of Practice for Retail Tenancies Regulations 1998 are in force on the day in which this section commences.

**New clause C agreed to.**

**Schedule 1 agreed to.**

**Title agreed to.**

**Bill reported with amendments.**

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### **Suspension of Standing Orders**

#### **Move Third Reading Forthwith**

**Ms ARCHER** (Clark - Minister for Workplace Safety and Consumer Affairs) -  
Madam Deputy Speaker, I move -

That so much of the standing orders be suspended as would prevent the bill from being read the third time forthwith.

**Motion agreed to.**

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### **RETAIL LEASES BILL 2022 (No. 30)**

#### **Third Reading**

**Bill read a third time.**

### **ADJOURNMENT**

**Mr STREET** (Franklin - Leader of the House) - Mr Speaker, I move -

That the House now adjourn.

**The House adjourned at 7.13 p.m.**