



PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 25 May 2022

REVISED EDITION

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Wednesday 25 May 2022

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

TABLED PAPER

Independent Review into the Public Trustee

[11.03 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council)(by leave) - Mr President, I table the Government's response to the independent review into the Public Trustee.

MOTION

Subordinate Legislation Committee - Membership

[11.03 a.m.]

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

That I, Mrs Hiscutt, the member for Montgomery, be appointed to serve on the Joint Parliamentary Standing Committee on Subordinate Legislation.

Motion agreed to.

MOTION

Estimates Committees - Establishment

[11.04 a.m.]

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

That the Legislative Council establish two Estimates Committees and that Committee A shall consist of 6 members and Committee B shall consist of 6 members:

And that -

Mr Duigan, Ms Forrest, Mr Gaffney, Mr Harriss, Ms Lovell,
and Ms Webb

be of Committee A

and

Ms Armitage, Ms Howlett, Ms Rattray, Ms Seijka, Mr Valentine
and Mr Willie

be of Committee B.

That the Estimates Committees report upon the proposed expenditures contained in the Appropriation Bills (No. 1 and No. 2) and budget papers by no later than Friday, 17 June 2022.

And that the schedule emailed to Members on Monday, 23 May 2022 be adopted as the Estimates Committees timetable.

| Monday 6 June 2022 | | | |
|------------------------------|------------------------------------|--------------------------|--|
| Commencing at 9.00 am | Committee A (Chamber) | Hon Michael Ferguson MP | Treasurer Minister for Infrastructure and Transport Minister for Planning |
| Commencing at 9.00 am | Committee B (Committee Room No. 2) | Hon Guy Barnett MP | Minister for Energy and Renewables Minister for Resources Minister for State Development, Construction and Housing Minister for Veterans Affairs |
| Tuesday 7 June 2022 | | | |
| Commencing at 9.00 am | Committee A (Chamber) | Hon Jeremy Rockliff MP | Premier Minister for Health Minister for Mental Health and Wellbeing Minister for Tourism Minister for Trade |
| Commencing at 9.00 am | Committee B (Committee Room No. 2) | Hon Elise Archer MP | Attorney-General and Minister for Justice Minister for Corrections and Rehabilitation Minister for Workplace Safety and Consumer Affairs Minister for the Arts |
| Wednesday 8 June 2022 | | | |
| Commencing at 9.00 am | Committee A (Chamber) | Hon Jacquie Petrusma MP | Minister for the Prevention of Family Violence Minister for Parks Minister for Police, Fire and Emergency Management |
| Commencing at 9.00 am | Committee B (Committee Room No. 2) | Hon Madeleine Ogilvie MP | Minister for Racing Minister for Heritage Minister for Small Business Minister for Advanced Manufacturing and Defence Industries Minister for Science and Technology |

| Thursday 9 June 2022 | | | |
|-----------------------------|------------------------------------|----------------------|--|
| Commencing at 9.00 am | Committee A (Chamber) | Hon Jo Palmer MLC | Minister for Primary Industries and Water Minister for Women Minister for Disability Services |
| Commencing at 3.30pm | Committee A (Chamber) | Hon Nic Street MP | Minister for Local Government Minister for Hospitality and Events Minister for Community Services and Development Minister for Sport and Recreation |
| Commencing at 9.00 am | Committee B (Committee Room No. 2) | Hon Roger Jaensch MP | Minister for Education, Children and Youth Minister for Environment and Climate Change Minister for Skills, Training and Workforce Growth Minister Aboriginal Affairs |

Motion agreed to.

MOTION

Estimates Committees - Request for Ministers to Attend

[11.05 a.m.]

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

That the Legislative Council having appointed two Estimates committees reflecting the distribution of the Government Ministers' portfolio responsibilities, requests that the House of Assembly give leave to all Ministers to appear before and give evidence to the relevant Council Estimates Committee in relation to the Budget Estimates and related documents.

Motion agreed to.

APPROPRIATION (SUPPLEMENTARY APPROPRIATION FOR 2021-22) BILL 2022 (No. 14)

Second Reading

[11.06 a.m.]

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

That the bill be now read the second time.

Mr President, the Appropriation (Supplementary Appropriation for 2021-22) Bill 2022 seeks supplementary funding of \$441.7 million to meet costs associated with the management of COVID-19 and costs associated with the normal and continued operation of government activities.

Regarding COVID-19-related expenditure, over the past two years the Department of Health and its hardworking staff have done an outstanding job keeping Tasmanians safe during these most challenging times. I thank them very much for their work.

To continue to support their work, this bill allocates \$125 million to the Department of Health for costs associated with the management of COVID-19. In particular, this additional funding meets costs related to vaccinations, testing, hospital and ambulance resourcing, contact tracing, quarantine and the purchase of equipment, including personal protective equipment.

The bill also provides \$42.8 million to the Department of Communities Tasmania to support the extension of the Tasmanian hotel quarantine program, which was a key tool in ensuring the safety of Tasmanians as we managed the impact of COVID-19 in our state.

We recognise that while our economy is strong and that many businesses are doing well, further support was needed to assist some businesses as we transitioned to living with COVID-19. Since the start of the pandemic, Tasmanian businesses have received more than \$160 million in COVID-19-specific support. This bill allocates \$40 million for the supercharged Micro and Small Business Border Closure Critical Support Grants Program. The Tasmanian Government worked closely with the Commonwealth Government to supercharge our Micro and Small Business Border Closure Critical Support Grants Program to support Tasmanian businesses where they needed it most and to provide confidence during the uncertain times of the pandemic.

In addition, \$3 million is allocated to provide assistance to businesses impacted by the southern Tasmanian COVID-19 lockdown in October 2021. We know that the sudden lockdown had a significant financial impact on businesses, particularly on those businesses where perishable goods such as food had to be discarded. The Government's action to provide this assistance helped to alleviate the financial impacts on these businesses and enabled them to continue to operate after the lockdown.

The bill also provides \$2.5 million in additional funding for the JobTrainer Fund. This additional funding enables the extension and expansion of the JobTrainer Fund, which provides funding for key VET courses for skills and training in areas that have been experiencing staff shortages during the pandemic, including aged care, IT and child care.

Through Finance-General, \$8.46 million is provided to meet costs charged by other jurisdictions to the state for Tasmanian residents who were required to hotel quarantine after returning from international travel. Continuing our support for businesses, funding of \$2 million is also provided through Finance-General to meet payroll tax relief for businesses impacted by border closures in the tourism, hospitality and ancillary services.

The bill provides \$21.8 million to the Department of Natural Resources and Environment Tasmania for COVID-19-related expenditure. This expenditure includes:

- \$11 million for costs associated with the state's ongoing border controls;

- \$7 million for Parks and Wildlife Service revenue loss;
- \$3 million for the expansion of passenger processing infrastructure at Tasmania's airports; and
- \$829 000 for costs associated with the Tas Traveller Management System.

Continuing to provide our students with a safe learning environment has been a priority for government. This bill provides \$8 million to the Department of Education to implement a range of actions that respond to COVID-19, including improvements to ventilation, and provision for air purifiers, air conditioning repairs, and window audits and repairs.

I now turn to the Tasmanian Risk Management Fund. In addition to the COVID-19-specific funding allocations, funding of \$105 million has been included in the bill to increase cash balances within the Tasmanian Risk Management Fund to reflect an actuarial assessment of increasing liabilities relating to workers compensation.

The health and wellbeing of every state employee is a priority of the Government, and meeting costs associated with workers compensation is part of that responsibility as an employer. This funding injection will ensure the Tasmanian Risk Management Fund has a sufficient level of financial assets to meet historic liabilities in the workers compensation category of the fund. As a self-insurance scheme, this is an appropriate and prudent financial approach for managing the fund.

Turning to other operating expenditures, the supplementary appropriation bill also includes funding for the normal business of government, and I will now run through some of those expenses.

Funding of \$7.6 million is allocated to the Department of Police, Fire and Emergency Management, including:

- \$6.5 million for costs associated with the police enterprise bargaining agreement, and
- \$1.1 million to continue funding for the child sexual abuse joint review team.

Further, the bill allocates \$24 million to the Department of Justice, including:

- \$12 million for the redress scheme and compensation payments to victims of institutional childhood sexual abuse;
- \$8 million for the Tasmania Prison Service demand pressures;
- \$2.5 million for the Primary Producer Safety Rebate Scheme for farmers to implement safety measures that help reduce work-related injuries and deaths in farming; and
- \$1.2 million for the implementation of the wellbeing support program for the Tasmania Prison Service.

An allocation of \$2.3 million is also provided to the Environment Protection Authority as part of its structural and organisational separation from the former Department of Primary Industries, Parks, Water and Environment. This funding will provide the EPA with more resources and enable increased environmental regulation and assessment activities to be undertaken by the authority.

The Department of Premier and Cabinet is allocated an additional \$1.75 million in the bill, including:

- \$500 000 to provide community assistance for the tragic Hillcrest Primary School incident;
- \$500 000 for the Pathway to Truth-Telling and Treaty Report; and
- \$750 000 for the Premier's Fund for Children and Young People for recreational and social infrastructure programs across Tasmania.

Other operating expenditure reflected in the bill includes funding of:

- \$380 000 for the 2022 Women's National Basketball League games;
- \$250 000 to Tasmanian Basketball Pty Ltd., trading as the JackJumpers, for the refurbishment of the Kingborough basketball stadium;
- \$4.61 million for the state government's payment to the non-government sector in accordance with the National School Reform Agreement;
- \$4 million to meet the costs of Cricket Australia for hosting the fifth Ashes Test at Bellerive Oval;
- \$562 000 for the Port Safety Legislative Review, and
- \$2.3 million financial assistance to GFG Alliance for the purchase of Liberty Bell Bay (TEMCO).

The bill also provides capital services funding of \$35.7 million which includes \$26.1 million in funding brought forward for projects previously allocated funding in 2022-23. This is a clear demonstration that the Government is getting on with its ambitious infrastructure investment program.

The MyState Bank Arena and Glenorchy indoor multi-sport facility projects are allocated \$21.1 million in the bill to ensure the precinct is a world-class entertainment and multi-sport facility for all Tasmanians.

The Department of Education is allocated \$3.15 million for additional capital services including:

- \$1.5 million for additional expenditure to accelerate the new Kinder to Year 12 Penguin District School project;

- \$850 000 to accelerate the works at the Southern Support School;
- \$500 000 for the Hobart City Partner Schools (Ogilvie, and New Town High); and
- \$300 000 for the Bothwell District School for the agriculture in schools project.

The Department of Health is allocated \$3.9 million for capital expenditure to replace the department's existing human resources information system with a fully integrated HRIS.

The Department of Natural Resources and Environment Tasmania is allocated funding of \$3.25 million for parks infrastructure, and that includes:

- \$1.2 million for the Community Recovery Fund project for the restoration and reinstatement of parks assets and infrastructure damaged or destroyed as a result of the fires in 2018;
- \$1 million for the improved Statewide Visitor Infrastructure project, which provides a significant investment in our iconic national parks; and
- \$1.05 million for the strengthening of the refurbishment of the Kanunnah Bridge.

The Department of State Growth is allocated \$3.46 million for roads including:

- \$2.15 million for the roads program to accelerate existing roads projects; and
- \$1.3 million for state road upgrades in the northern region for the Midland Highway pre-construction activities.

The Department of Justice is allocated capital service funding of \$322 000 for expenditure on the northern correctional facility project.

The Government's priority has always been the health and wellbeing of the Tasmanian community as we managed the impact of COVID-19 on the Tasmanian community and as we transition to living with COVID-19. This bill provides the resources required by agencies to manage the impact of the pandemic on the Tasmanian community, while also providing the funds needed to continue those services and projects that build on our strong position and secure Tasmania's future.

I note in our room we have some young people I am sure you will talk about soon. I hope you had your calculator out to add up all those millions of dollars. It was an awful lot of money.

Mr President, I now commend the bill to the House.

Recognition of Visitors

[11.09 a.m.]

Mr PRESIDENT - I welcome to the Chamber today the Lansdowne Crescent Primary School year 5 'Yellow' students who are touring the parliament today.

What we are doing at the moment is the second reading stage of an appropriation bill to issue the Government with \$441 739 000. It is a fairly serious bill. Each member here will be able to have input and ask questions as to why that expenditure is needed. This bill has been through the House of Assembly. It comes to the Legislative Council and, if it passes here and the Governor signs off on it, it then becomes law.

I am sure you will all have a very interesting time touring the parliament today and all members here will join me in welcoming you to the Legislative Council.

Members - Hear, hear.

[11.20 a.m.]

Ms FORREST (Murchison) - Mr President, thank you for that explanation of the process for the young people here.

It is important to reflect that we are on the eve of the budget. Tomorrow is budget day, at the usual time of year. It is not earlier than usual or anything like that. We are looking to pass a bill to appropriate an additional almost half a billion dollars. The question that first came to me when I looked at the scale of this, acknowledging all of the COVID-19-related matters, is how is it that this level of funding was not anticipated in the budget?

I thank the Leader for organising the briefing and some of the questions answered in that process. I accept the explanation of why the Treasurer's Reserve was not used to fund a significant portion of this - not all of it, the Treasurer's Reserve is not that large - but even to fund aspects of it. However, we need to carefully question the decisions about such a large expenditure, as we will in coming weeks with the budget.

There may be no definitive answer to some of the questions I am going to ask now. They may well be matters that can be followed up through the budget process because a lot of these things relate to ongoing expenditure. However, what we are dealing with here is unbudgeted expenditure, expenditure that was not anticipated in the not-insubstantial budget last year.

I understand through the briefing that 57 per cent of the requirement in this additional funding has pretty much all been spent anyway and is related to COVID-19 and the COVID-19 response. We know that offers up continual challenges. When you add the appropriate level of funding to the Tasmanian Risk Management Fund, that boost is up to 81 per cent of the total additional expenditure. If you take those bits out - not that I am saying that you take them out - it provides a much more realistic picture of the unanticipated spending budgeted for last year. There was a bit of fat in the budget last year to deal with unexpected expenditure related to COVID-19.

I echo the Leader's comments, as I did yesterday when we were reflecting on the Public Accounts Committee report into the COVID-19 response, that we all acknowledge the staffs' hard work across all departments in dealing with the COVID-19 response, particularly those at the very front-facing roles in health and education, and also in our border control measures. It has been an extraordinary effort and it is not finished yet.

The additional money for the Department of Health has been predominantly for dealing with that, as well as some money for their human resources IT program, which I understand is

very old and not doing the job it needs to do. We probably need much greater investment in IT across many areas of government.

I will ask a few questions in relation to some of these matters. It says the bill provides an additional \$42.8 million to the Department of Communities Tasmania to support the extension of the Tasmanian hotel quarantine program. I understand this is looking at the costs associated from the beginning of this calendar year to the end of June this year, and I am sure it is probably picking up costs that are incurred in that last part of 2021 as well. However, it seems like a large amount when we knew hotel quarantine was already in place, and was already being utilised much more than it has been since we opened the borders in December.

I did clarify the international border opening, which was November last year. After that, people were able to quarantine at home, provided they had a safe and appropriate place to do so. I find it interesting that there is such an increase in additional funding required for the hotel quarantine. I ask for some further clarity about what that was for, because this is not an unexpected cost. We knew when passing the budget last year that significant funding was needed to manage hotel quarantine. Could the Leader provide some information about that, a breakdown of that \$42.8 million?

There is \$40 million for the so-called supercharged Micro and Small Business Border Closure Critical Support Grant Program - what a mouthful that is. The Tasmanian Government worked closely with the Commonwealth Government. Is the \$40 million just the state contribution, or was there additional Commonwealth contribution into that? I assume it is just the state contribution. If so, how much was the Commonwealth Government contribution, and was it a dollar for dollar, \$40 million from the federal government and \$40 million from us?

Turning to \$3 million allocated to provide assistance to businesses impacted by the southern Tasmania COVID-19 lockdown in October 2021. I mentioned yesterday, when speaking in response to the Public Accounts Committee report, that we know significant support was required for Queenstown businesses at the time because of the impact that had on the Unconformity Festival. I will declare my interest in being a board member of Unconformity. Does that \$3 million include the support that was given to Queenstown businesses, and some of those vendors who have come into Queenstown with food and produce to sell during the festival? Is that a total amount, or is there a separate allocation for the businesses that were not in Hobart?

The other one I found a little bit interesting, and we did talk about this in the briefing, that \$8.46 million is provided through Finance-General to meet the cost charged by other jurisdictions to the state of Tasmania for Tasmanian residents who were required to hotel quarantine after arriving from international travel. Was this not known about? My question for the Government on this is, when was it decided that Tasmania would need to pay for Tasmanians quarantining, no doubt mostly in New South Wales and Victoria? I am not saying it is unreasonable to do that. If we were receiving international arrivals from all manner of states we would also want some money back. However, I am interested in when this decision occurred and how the decision was made. If this is an addition to money we have already paid knowing it was happening - and particularly when we consider that hotel quarantine for the majority of international arrivals ended in November 2021, for those who could quarantine safely and effectively at home - then it seems like a lot of money to pay out, if it was not known about it in the budget last year.

Mr President, when we look at the Department of Natural Resources and Environment Tasmania and the \$11 million associated with the state's ongoing border controls, I would have thought these would have been fairly well known. I do not believe the border controls changed dramatically when we opened the border - in fact, they became less rigorous. For a short period, you had to show your COVID-19 vaccine certificate when you came into Tasmania, but that was no different from having to come in and show your pass. The requirements gradually diminished. You walk in and meet the dog now, as we always did. I am interested why we need an extra \$11 million in border control when these costs should have been pretty well known and not increased. One would have thought they would have diminished over this period.

The same comment applies to the \$3 million for the expansion of passenger processing infrastructure at Tasmanian airports. That may relate to the opening of the border and then having to show your COVID-19 vaccine certificate; but that is no different from having to get your E-Travel pass or your Good to Go pass. Depending on where you had been and how long you had been there, different passes applied. I remember sitting in a plane on the tarmac, forgetting I had not done it at one stage. However, I had no problem with it. It was all very efficient.

This may be a question for which Committee B can drill down more into the education portfolio or in our follow-up reports in PAC and our inquiries there, into the ongoing return to school program. However, the bill provides \$8 million to the Department of Education to implement a range of actions that respond to COVID-19, including improvements to ventilation, provision of air purifiers, air conditioner repairs, window audits and repairs. Has that \$8 million dealt with all the schools? Do all the schools now have adequate ventilation, air purifiers where needed, and windows that open?

Mrs Hiscutt - Through you, Mr President. Is the member asking about all public schools?

Ms FORREST - Yes, public schools. I assume that money is only for public schools? Or was there money provided for the private independent schools?

Mr Willie - I think there was a very small amount for Catholic schools.

Mrs Hiscutt - There was a little bit. For the purpose of the question, we will stick to public schools.

Ms FORREST - Yes. I am interested in whether the \$8 million has achieved the intended aim of the overall program. I accept that a lot of this was probably unbudgeted because we did not know the extent to which it was going to be needed. Omicron was a different variant, it was much more contagious, it required a much greater focus on the transmissibility of the virus and, of course, school settings - particularly with younger children - create an environment where it is hard to keep children physically apart.

Mr President, the Tasmanian Risk Management Fund, as we know, has long been underfunded. Moves have been made to deal with this through requiring the departments to pay, not really a dividend, but a contribution to the fund. Clearly, that has been inadequate. We know from the Treasurer's Annual Financial Report there was a \$29 million deficit in it in the last financial year. This \$105 million is really bringing it up to almost a level playing field,

one would assume. This will be a point for me to look at, and I am sure the Treasurer will expect it. There is no line item that says Tasmanian Risk Management Fund, but it is a really important part of the overall budget and we know, from the briefing today, that there is increasing demand on the Tasmanian Risk Management Fund. It is a self-insuring fund. This is how the government meets the insurance needs of all its operations and services, as I understand it. All workers compensation claims, including the psychological claims - which, according to today's briefing, have significantly increased in number and are now six times higher in monetary costs than physical claims. It is motor vehicle insurance; it is dealing with bushfires, floods and every other pestilence that can be forced upon us.

Ms Rattray - Damaged houses.

Ms FORREST - Yes; not necessarily privately owned houses but government property, like bridges, roads, rail lines, all those things.

Ms Rattray - Through you, Mr President. It is interesting that the Government has chosen now, when it has been severely underfunded for a long time, to actually -

Ms FORREST - As I understand, in the past they have sought to try to address that by asking the agencies to contribute to the fund rather than waiting to see what the demand is on the fund. But we are seeing increasing demand on this and part of it is the psychological claims being made. We know the very real impact COVID-19 has had on the mental health and wellbeing of so many of the state government employees.

We also know climate change is creating all sorts of havoc around the world and if you want to have an idea of how important it is, look at the federal government election result. That will tell you how important it is. That saw a massive change in the Greens vote in Queensland. You know when people are recognising how important it is, that we do something about climate change and we do address the challenges, because what we are seeing is the floods. How many times has Lismore been flooded now? How many times has Brisbane faced floods? How many times has the Lockyer Valley been on high alert? That is just the flood season. Well, it is an extraordinarily long flood season. And then we get into the fire season.

We know that there is a very real risk of claims to this Tasmanian Risk Management Fund in relation to government responsibility. It will be a matter that bears watching and in many respects I would not be surprised to see further calls on it, or further need to top it up from time to time.

Mrs Hiscutt - I did not hear any specific questions for us now. They are questions you are going to put through Estimates? Is that right?

Ms FORREST - It was really more comments on that. I will be interested to see how they are managing into the future with the budget. But that is a budget matter.

The other matter I note is the extra \$12 million for the redress scheme and the compensation payments to victims of institutional childhood sexual abuse. What a sad place we are where we need to put so much money forward. However, I think this is only the tip of the iceberg. The commission of inquiry is going on at the moment. We can all dread the outcome of that in many respects. What we will be or already are being informed of. We are likely to see a much greater need, not that money can ever take away the trauma or the pain, it

can never take away someone's youth and the life they could have had, but I believe there will be a call for more. The question on \$12 million of additional funding is, is this money already being paid out? It is not like getting ahead of the game in terms of knowing we are going to have more to pay out. Is this actually just covering what has already been called upon?

Mrs Hiscutt - I might ask the member for Murchison to clarify your question on the redress.

Ms FORREST - Is the \$12 million additional expenditure here, or the allocation of expenditure here, to cover current claims we have already had? This is not looking into the future with what we might see coming down the line through the commission of inquiry. I am sure there will be. You do not have to look too hard to see or to watch the proceedings in the commission of inquiry to see that there are so many people who have been hurt.

Then going into the \$8 million for the Tasmania Prison Service demand pressures. I assume this is operating and this is to fund overtime and those sorts of measures. Is it also to engage additional prison staff to deal with managing COVID-19 and their COVID-19 response in the prison, which is obviously a high-risk environment and difficult to manage?

This is one the Leader may not be able to answer and I accept that. At what stage is the restructuring of the Environment Protection Authority? Has that been completed so that in budget Estimates Committee A, the minister for Environment will not see the director of EPA sitting across the table with the minister? He will be there as an independent authority, like how the Auditor-General turns up for Committee A. Because that is the expectation I have about this restructuring. I am wondering where it is up to. Has that separation occurred, as that is particularly important? Again, perhaps they cannot be answered.

Ms Rattray - It must be pretty flash.

Ms FORREST - It was going to cost a bit to give him true independence and resources in the office as necessary to actually be properly independent.

The \$500 000 for the Pathway to Truth-Telling and Treaty Report, my question is, was that money needed to complete the report or is this money allocated to try to progress the work recommended in the report? I am sure Committee B will have more questions on that process when they scrutinise the Minister for Aboriginal Affairs.

The \$4.61 million for the state government's payment to non-government sector in accordance with the National School Reform Agreement. Why was that not budgeted for? Is this a new agreement or has there been some additional uptick in this? Again, I do not know how much the overall payment is in this, not being familiar so much with the educational portfolios, but it seems like this is a not insignificant amount of money for an increase in requirement outside of a budget process.

I had a little smile to myself when I read about the capital funding of an extra \$35.7 million which includes \$26.1 million in funding brought forward from projects that were scheduled for 2022-23. The Leader said this is a clear demonstration the Government is getting on with an ambitious infrastructure investment program.

Mrs Hiscutt - It certainly is, Mr President.

Ms FORREST - However, as I understand it, a significant lick of that was in the MyState.

Mrs Hiscutt - About \$21.6 million.

Ms FORREST - Yes, but how much of that was the overspend after the approval?

Mr Willie - About \$20 million.

Ms FORREST - That is what I thought. If you take out the \$20 million, are we talking about that, bringing it forward, when this was funding that had to be found to pay for what appears to be a budget overrun, increased costs? To make a claim you are getting on with ambitious infrastructures plans - let us wait and see when we get to the budget and see what it actually does look like.

Mr Willie - I think some of this is the community courts which are next to the DEC.

Ms FORREST - It may well be. What we were told in the briefing was there was additional expenditure from additional costs that were unanticipated.

Ms Rattray - \$9.6 million over budget.

Ms FORREST - It was not quite that bad.

Mr Valentine - It was a separate project to the original project.

Ms FORREST - That is right, from what the Public Works Committee approved. So, in effect it is \$29 million above what was budgeted for when it was considered by the Public Works Committee.

Mr Valentine - The Public Works Committee was around \$40 million, I cannot remember the exact figure and then that project blew out to \$60 million and something. This is another part, another additional thing which was not something we actually looked at, as far as I am aware.

Ms FORREST - It is another additional thing on top of that. I would be interested to know what that additional money actually relates to.

Mr Valentine - It would have come under the threshold.

Mrs Hiscutt - \$79.1 million.

Ms FORREST - As I would never miss an opportunity, it was nice to see the \$1.5 million of additional expenditure to accelerate the K-12 Penguin District School project in the member for Montgomery, our fearless Leader's electorate. They seem to get a heck of a lot of money over there, the Penguin School, year after year. Where is Montello's money? That is not a matter the Leader needs to answer now, it will be on the agenda for next week, and the week after and the week after that until.

Mrs Hiscutt - You are highlighting that for the Estimates.

Ms FORREST - It will be next week, or tomorrow, I will be looking for it, because that is a school that needs significant - not just a patch-up around the edges, not a few windows fixed and a lift put in - it needs a complete rebuild and I will not be happy until it is done, particularly when there is a hotel up the road that gets \$1 million a year because of legislation we passed here.

Other members will obviously bring up other matters but it is important that we explore more some of the additional monies that have been spent, particularly those not related to the COVID-19 response.

However, even the COVID-19 response ones should be questioned because you could throw a heap of additional spending into that and if we do not look at it, we may not see areas that perhaps need further scrutiny.

It has been a challenging time for all governments. It has been a challenging time to find the money needed. I am very grateful that the Government has stepped up and provided community support to businesses, health professionals, hospitals and schools to make it as COVID-19-safe as we can at what has been quite a frightening time. I do not oppose the bill but there are more questions that need to be answered.

[11.46 a.m.]

Mr WILLIE (Elwick) - Before I start, Mr President, it was remiss of me not to congratulate the member for McIntyre yesterday on her re-election - fourth time, a strong endorsement from her community. I also congratulate the member for Huon, a strong result for you too and I am sure you will serve the electorate well, as your dad did. I will not congratulate myself. I did that by buying a new suit, which I had on yesterday.

I will start with Budget Paper No.1 because this is a significant departure of thinking at the time of the budget. It is the Presentation of COVID-19 Response and Recovery Initiatives and Costs. The two paragraphs read:

The presentation, allocation and treatment of COVID-19 response and recovery costs has continued to develop since the publication of the 2020-21 Budget. The 2021-22 Budget also includes an increased Treasurer's Reserve to provide capacity to manage the increased likelihood of uncertain and unforeseen costs.

So, they increased the Treasurer's Reserve.

Identifiable commitments for COVID-19 response and recovery activities have been directly appropriated to the relevant entity for implementation as part of their overall service delivery.

So, we did see allocation of funding in the Budget for foreseeable or identifiable commitments.

All 2021 election commitments, some of which include COVID-19 response and recovery components, have also been directly appropriated. As new or unforeseen costs emerge or become quantifiable during 2021-22, the capacity within the Treasurer's Reserve will be utilised to meet those costs.

However, we are not doing that at all. We have a supplementary appropriation in front of us. The Treasurer's Reserve, as I understand it, will be returned to the Public Account. I raise that because we are talking about significant funding here. We have talked about the Fiscal Sustainability Report in this place. If we put this request from the Government in that context, it presents a concerning picture over the longer term. This House will have to monitor whether being asked to approve supplementary appropriations for significant expenditure is an ongoing trend.

The Fiscal Sustainability Report presented four scenarios: historical trends, forward Estimates, high expenditure and low revenue. Under every likely scenario over the next 15 years, spending will exceed income, and here we are approving \$440 million.

Net debt in the historical trends under the Fiscal Sustainability Report will reach \$20 billion in 15 years time. If we have a 2 per cent increase in debt servicing costs, the debt servicing costs would be \$612 million in 2034-35. Under the high expenditure scenario, the debt servicing costs would be \$612 million in 2034-35. Under the high expenditure scenario, servicing costs would be \$840 million. We have to think about things like the GST risk.

Ms Forrest - The cliff.

Mr WILLIE - The cliff - the deal negotiated by the Scott Morrison government which will take effect in 2026-27. There is also the Retirement Benefits Scheme.

So, there are significant risks to our budget, and here we are with a request for a supplementary appropriation for a significant amount of money. I wanted to put that in this context. It is something I will monitor in my time here because of those projections by Treasury. It is worth remembering that when we talk about this sort of money.

I have some questions regarding identifiable commitments. I am interested in the health expenditure of \$125 million, which was for vaccinations, testing, hospital and ambulance resourcing, contact tracing, quarantine and purchase of equipment, including personal protective equipment.

Regarding vaccinations, can the Government provide the exact date the vaccination program started? I would have thought that it was underway when the budget was delivered and they would have understood how much of the population had been vaccinated and what needed to be done. You would think that would be an identifiable cost.

We had an explanation that the Omicron variant of COVID-19 changed the situation. I can accept that, particularly with testing. We did see a surge in testing requirements over the summer as Omicron took hold in Tasmania. Omicron probably had an impact on hospital and ambulance resourcing. I imagine some of it was identifiable.

Contact tracing - well, that went out the door.

Ms Forrest - It was up to you to do your own.

Mr WILLIE - Yes. So what sort of cost was involved in contact tracing? Obviously, we had contact tracing until the borders opened but perhaps that was an identifiable cost when

the budget was delivered last year. From memory, the premier and the Government were talking about the borders possibly being closed until the end of the year, until we vaccinated -

Ms Forrest - 90 per cent.

Mr WILLIE - I think it was 80 per cent then we went to 90 per cent.

Ms Forrest - They started off with 85 per cent but then thankfully pushed it up to 90 per cent. We got to over 95 per cent.

Mr WILLIE - The point is, we had an understanding of how long the borders were going to be closed, roughly. I am interested in the contact tracing costs.

Quarantine is another one. We had an understanding that it would probably be the end of the year before the borders opened.

Personal protective equipment: I know that over the last few years the stocks in personal protective equipment have increased across government because of the pandemic. I want more clarification on that.

In terms of hotel quarantine, same thing. We had an understanding that the borders were going to be closed until the end of the year, so \$42.8 million is a significant additional expenditure request.

Business support. That is understandable given the impact when we did open the borders. Large sections of the population went into their own self-imposed isolation and a lot of businesses were affected. I know my family did that; we took off down to the Tasman Peninsula over Christmas and stayed away from the community until we understood what it really meant. A lot of Tasmanians did a similar thing.

Sudden lockdown. Yes, that is understandable.

I am interested in a breakdown of the \$8 million additional expenditure in education for things like ventilation. There was further information about ventilation, but could we have an understanding of how much went on infrastructure, ventilators and any other expenses?

Mrs Hiscutt - Through you, Mr President, you are looking for a breakdown?

Mr WILLIE - Yes. I would imagine a significant amount of it went on fixing the windows and buying air purifiers. If we could have a bit more information.

Mr Valentine - Private school stuff.

Mr WILLIE - Yes. I think the Catholic education sector might have received some funding. They had to match it, from memory.

The other questions I have are around the Risk Management Fund. Obviously, a \$29 million shortfall identified is significant. Then we have had an additional top-up in that \$105 million. In terms of overall sustainability, how does the department's contribution to that fund work, and is it a percentage of their overall budget, or do some departments have higher

risk, liabilities and responsibilities than others? If I can have information of the overall sustainability of that fund and whether we will be back here asking for more money again.

I do not have a lot of questions because the member for Murchison covered quite a few. The other one was the Tasmanian basketball stadium upgrade - \$250 000. I have an RTI where the department and the former minister worked through that as an election commitment. It is now an unbudgeted expense. If I could have clarification on when that decision was made to fund that commitment, that would be useful.

In conclusion I will be monitoring these supplementary appropriations. It is a concern when we put it in the context of a Fiscal Sustainability Report. The Government does get some leniency from me in having to deal with COVID-19 and there were unforeseen circumstances. However, it is very important for this House and members of this place to provide oversight and scrutiny over these requests given the state of our budget.

Recognition of Visitors

[11.57 a.m.]

Mr PRESIDENT - I welcome the second group from Lansdowne Crescent Primary School, the year 5 'yellow' students who are joining us in the Chamber. What we are currently doing is the second reading stage of a bill that the Government has sent us, asking that we approve the additional expenditure of \$441 739 000, which is quite a deal of money. All members get to have their say on the bill. If the bill is passed here, then the Governor approves it and it becomes law.

I hope you are enjoying your day touring the parliament of Tasmania, and I am sure all members of the Legislative Council will join me in welcoming you to our Chamber today.

Members - Hear, hear.

[11.58 a.m.]

Ms RATTRAY (McIntyre) - Yes, \$441 739 000 is a lot of money. That is extra on top of what has already been allocated. It deserves scrutiny of this House and this parliament.

I am pleased to be able to provide my input, and as I indicated to my new seat buddy and colleague, the member for Huon, if you do not get up quickly, most of it has already been asked. I will do my best to cover other areas not already covered by the member for Murchison and the very quick member for Elwick. He is certainly quick off the mark these days, Mr President, and you are seeing him every time.

As I said, that is certainly a lot of money to be an additional supplementary appropriation for the 2021-22 Budget. As we know, it is, as the member for Murchison indicated, on the eve of the budget. In a week and a bit's time, we will be plowing through that budget line by line, output group by output group. I can see the newly appointed minister doing her homework right now. She is probably looking at her portfolios and working out what questions are going to be coming forward.

Mr PRESIDENT - I think she is still reading the finfish report and will be for some time, I would imagine.

Ms RATTRAY - She will be.

I add my congratulations and thanks to the former premier, Mr Gutwein and his team and certainly, the Treasury team has been a big part of the way that the finances have been handled for our state. We have been very fortunate to have had that strong leadership over the pandemic and we are not out of it yet. We are still technically in the pandemic stage. You only have to look around this Chamber to see that we are still wearing masks and we know that there has been some relaxation of particular spatial requirements. The Agfest people are kicking up their heels as we speak.

I expect there are a lot of other groups and organisations across the state that believe there might be some chance they might be able to hold a successful event into the future and not be really worried about whether they can break even and not be going backwards. The show societies - I am a member of the Scottsdale Show society that could not hold a show last year because they would have actually lost money. Small organisations like that cannot afford in this day and age to lose money. It is too hard to get. In that respect, I want to congratulate everyone involved in that and certainly, Leader, your Government has shown strong leadership. I encourage our new Premier to continue on that road of strong leadership, which I know he will. He has been a long-term member of this place and he certainly knows the ropes.

The Department of Health has been allocated an additional \$125 million. You only have to see all of the various types of equipment we have around the place, whether it be hand sanitiser, masks or extra precautions that are taken, particularly in all of those areas of health. Of course, it is going to cost extra money and we know the covering of shifts would have cost a lot of extra money because people could not go to work. You really cannot argue it has not been necessary when you talk about vaccinations, testing, hospital and ambulance resourcing, contact tracing, quarantine and the purchase of equipment, including personal protective equipment. That would be on top of all those RAT tests available at schools and places of employment that people were taking home and using. Perhaps, in some cases, sharing them with family and friends because they were difficult to find. They were difficult to source and we wanted to do our best as a community to keep safe. Again, I am not going to argue that was not a necessary requirement and one very difficult to foresee as to what those additional costs were going to be.

There is \$42.8 million for the Department of Communities. The member for Murchison talked about hotel quarantine and I will be interested to hear what the Leader has in her response, particularly on the international side. I did write down how many outstanding debts there are still. I do not necessarily imagine, with how busy Treasury is, particularly today, that they might have the answer to that. I am certainly happy to put it on the Notice Paper if it is not available, to know how many people and how much money was involved when you received your account. Unfortunately, some people did not realise that they were expected to pay for that quarantine. They felt they would be eligible for an exemption, and that did not always come to fruition.

I will add my 20 cents here for the MyState Bank Arena. I have been somewhat critical of the amount of money the Government has put into that facility, particularly given there are plenty of other facilities around the state that I consider were in less of a fit-for-purpose state. I remember, as a member of the Public Works Committee, going out to MyState - it was still the DEC then. I was told by the work supervisor at the time that the work that had been undertaken already was at a cost of \$300 000. I said that has to be rubbish, you are not telling

me the truth. No, no, no, he said, we have only spent \$300 000. I remember talking to the chair of the committee and a couple of other committee members, and saying, I am in the middle of building a house and I know what \$300 000 gets you, and it certainly would not get you this.

Mr Valentine - That is exactly right.

Ms RATTRAY - Those were my exact words. It is no wonder there has been a \$9.6 million increase, because what they had already done before the Public Works Committee had been on the site visit to approve that project could not have cost \$300 000. For it to come in that far over budget, what is the point in having a contract?

Mr Valentine - Through you, Mr President, I think the component dealing with that was in the \$20 million increase from the \$43 million or \$40 million or whatever it was. This one is for the community courts, which was not a part of that project. I think this is a different project.

Ms RATTRAY - This \$21.6 million includes, and I wrote it down from the briefing this morning, \$9.6 million of increased costs relating to inflation, so the remaining \$11 million may well be.

Ms Forrest - What is the inflation measure? It makes an awfully big number for that amount of money.

Ms RATTRAY - The Glenorchy Indoor Multi-Sports Facility project may well be the \$11 million.

Mr Valentine - That is a separate project to the other one.

Ms RATTRAY - Yes; but I wrote down \$9.6 million increase, and there had to have been a significant overrun, because somebody had to pay for the work. There were people everywhere, and the member for Huon will be able to tell you that no good tradesperson works for not much.

Ms Forrest - I am sure it is not just the cost of the tradies, I reckon it is the materials.

Mr Willie - They probably took a pay cut to come here.

Ms RATTRAY - Apparently people do; not my good self, but I know that some other members do, particularly if they leave other careers.

Mr Valentine - We need three members of the Legislative Council on that Public Works Committee, to even it out, and we can have an extra person who knows a fair bit about that sort of stuff.

Ms RATTRAY - It would be a good one to get his teeth into. It must be very difficult to sit there and not be able to say a word yet, but I feel sure it will not be long before he is on his feet. I look forward to that. I know we do not compare the two, but it was always a delight to work with the former member for Huon.

It will not make any difference; the work has already been done. It has been paid for. It needed to be completed, and I understand that, but we need to be up-front about these projects right from the word go so that people know. You could imagine my concern when they talked about building a new multipurpose football stadium on the waterfront. They said it would be at a cost of \$750 million. It could not possibly be built for that, given the environment that we are in at the moment.

Mr Willie - There is no funding for it to get going.

Ms RATTRAY - No. It is no good floating numbers because, as we know, it does not ring true.

I am interested in the \$4 million for Cricket Australia, for the Ashes Test. I know people love cricket, and it was a fantastic opportunity, but why was Cricket Australia not paying us to have them? They are flush with money. I do not understand that. Perhaps if it was \$1 million; but \$4 million? People embraced that opportunity and did not necessarily see it as I do. When you put it into a significant figure that is before us, it all adds up.

The GFG Alliance/TEMCO acquisition - \$2.3 million. It would be interesting to have some more information about that, although it is something that had to be acted on, as an asset. I am interested in the future and what the Government sees as the benefit for Tasmania.

The Port Safety Legislative Review of \$562 000 - would that not come under the work of TasPorts? I want some detail about that. It is interesting that the Government picked up the tab for it.

Ms Armitage - They obviously need port safety at Devonport.

Ms RATTRAY - I noticed that they put in a claim to the parent company of *Goliath* to try to recoup some funds back. I would not like to have been the driver of that tug.

Mr Valentine - It brought some focus to the need. Put it that way.

Ms RATTRAY - Yes, perhaps it did. But accidents do happen.

I congratulate the Government on their supercharged Micro and Small Business Border Closure Critical Support. Small business - indeed, every business - took a hit and most of our businesses in Tasmania are considered to be small businesses. Congratulations to the Government. I know the former minister is here in the Chamber and was very active in that space. I congratulate her and her team for the work they did through that time. It was very much needed. It literally kept the doors open for some businesses.

Ms Howlett - We witnessed that on King Island.

Ms RATTRAY - Flinders. We did. Kept the doors open.

I will not leave the lectern until I make a comment about the northern correctional facility consultation process - \$322 000. Is that the consultation process for the two abandoned sites at this point in time, or just for the Birralee Road one? Or is that for work done on the proposed move to the Ashley Youth Detention Centre? I have no idea and neither does the community.

It is about time we had - and there has been community input - but I have not seen the report yet. I am interested to see if that is available. There must have been a report compiled from the information sessions and I believe there were about 130 representations to those information gathering sessions held in and around the Deloraine area at various locations. I attended one. I went to get some information and they were asking me for information and I said, 'I think that is your job not mine. I am here to listen, and I am here to represent the community'.

There is some concern about where we are going with this. Would it not be better to decide what type of correctional facility is needed? Is it a rehabilitation type of centre? Is it a full-blown prison with all the levels? The medium, the maximum and a women's centre as well? I am not sure. I certainly do not have that information and I need to have it, because I need to be informing the community I represent. There are many in that community, even the people who live in and around Westbury, who are still very interested, even though it has been indicated we are moving from Westbury now to the Deloraine side of Exton to establish that correctional facility.

Let us have a conversation about what sort of facility it is - that would be the first step. Then you work out where you can put the type of facility required for a correctional facility in the north of the state.

Mrs Hiscutt - Mr President, I am listening to the member for McIntyre talking. The advisers I have here will be able to talk about the allocation of the \$322 000. However, your other questions about the prison, we will not have that information here. If you desire a briefing, let me know and I can arrange something for you.

Ms RATTRAY - That would be very helpful, thank you, Leader. I have been a tad preoccupied. When you are coming up for an election you are very focused on that day

Mr Valentine - You might have been receiving quite a few questions on it.

Ms RATTRAY - Absolutely. I have had requests this morning to meet with an assembled group around the proposed northern correctional facility and the siting of the facility. There are plenty of questions. They have spent \$7 million on the entrance to the Ashley Youth Detention Centre to make the entrance more appealing.

It is not surprising to see the Tasmania Prison Service demand pressures - \$8 million - and we know that would have gone towards overtime. I expect that is the reason and the Leader might confirm that, but normally that is what we see. It is very difficult. We have argued in the past, time and again, that we should be able to get that number down if there was an effective rostering system in place. With the demands of COVID-19 there have been outbreaks through the prison from time to time. Media outlets indicate it is probably one of those issues that has been very difficult. Mr Thomas works extremely hard on trying to rein that overtime budget in but, unfortunately, it keeps blowing out. Here we are with an \$8 million supplementary appropriation.

The Community Recovery Fund project which is for parks, assets, post-fires, \$1.2 million. Was that one project or a number, Leader? I do not know many park assets were lost through fires that needed a supplementary appropriation. We know that obviously there was a significant loss in revenue because people could not travel. They could not get out, we

were housebound and only allowed to go to work, so there was a revenue loss. There has been a funding allocation of \$7 million to Parks and Wildlife Service and I can assure you they have not been spending it on any of their roads and infrastructure into a lot of those parks. Every week I get complaints about the state of the roads, getting in and out of those parks. The answer we continually get back is, we do not have any money to do it. The warning there is we have to be careful how many parks we have if we cannot manage them, because then we have potentially significant issues when we have weather events and there might well be a fire.

Moving on, obviously no issue with the funding through Premier and Cabinet for the Hillcrest Primary School incident. Very, very sad and we can only continue to express our sympathy for the people who were involved and then remain behind.

I made some interjections to the member for Murchison on the Tasmanian Risk Management Fund contribution of \$105 million. Why now, when we have such pressure on the state's budget, is it that this time has been chosen to put in those funds? Is it because the Government has decided agencies will never be able to stump up with any funds to put into that Risk Management Fund? I took onboard the comments that were made on the worker's comp and the significant mental health issues.

If you were working for government, a public servant, and you decided you were opposed to being vaccinated, you lost your job. I talked to somebody from TAFE last week, because I was getting pretty cranky about the fact you could get an exemption from having a vaccine and could go to TAFE and do classes, but if you chose to be unvaccinated, a person's right, whether we agree or not, it is their right to make that choice, they could not attend. What is the difference? We had quite a robust discussion on that and he told me they had lost some very good teaching staff from TasTAFE because they had decided they did not want to be vaccinated. They were not prepared to be vaccinated.

I have been working with a number of apprentices who were very concerned about having their apprenticeships terminated because they could not attend the TAFE classes and undergo their assessments in-house. I was told there would be arrangements made externally so they could be assessed. Then I saw a letter from TasTAFE saying there are no opportunities and you should consider how we might terminate your apprenticeship. Not good enough. Thankfully there have been some changes to the TasTAFE policy around attending and people are now allowed to go back. Of course, they are always going to undertake the appropriate health and safety requirements, masks, sanitising, as much space as you possibly can for that type of arrangement. A fourth-year motorbike mechanic apprentice, to tell him, 'No, we are not going to make those alternative arrangements and you will not be able to be assessed, and we will be terminating your apprenticeship' - not good enough. Thank goodness I did not have to keep my appointment with the minister I had ready for this week.

Interestingly, the guy at TAFE who was one of the supervisors said it was general chatter around the morning tea table, the lunch table, that they felt very disappointed with that policy. Here were teachers who were prepared to have those students, apprentices and trainees back in TAFE but that was not being facilitated because, 'we were keeping our staff safe'. That was the reason behind the policy - staff and students safe. Anyway, I have had my say on that. Thank goodness that is sorted.

I found it interesting that the Bothwell District School had an allocation. In the scheme of things, in \$441 million, \$300 000 is not enormous. I support agriculture in schools, so well

done to Bothwell. However, I find it interesting that it is a supplementary appropriation. I know it is your school, Mr President, and I am not saying that it is not worthy of it, but why was it not included in the general delivery of the budget? I know that there was money in last year's budget because we scrutinised that very well and we will do it again in a couple of weeks with the members of Committee B and the shadow for Education. As I said, in the scheme of things it is not a huge amount of money, great programs, particularly for kids who might not necessarily be wonderful scholars for maths, English and science, but they love the ag stuff, the hands-on, and we need those hands-on people.

I have no issue with infrastructure being brought forward for the K-12 Penguin District School; we need to keep things working.

I have just about covered what I need to and I hope I have left something for somebody else.

I do not oppose what we have before us. A couple of questions there about the timing of the Tasmanian Risk Management Fund. Why pay it back now when it is probably the least amount of money we have had in quite some time? There are also question marks over a couple of those other infrastructure programs and allocations.

Again, I congratulate the Government for the work they are doing to continue to keep Tasmania feeling positive in what could quite easily be a challenging time for a lot of people, particularly small business. With our borders open, we are getting quite a few visitors to the state, which is always good for the economy. I look forward to the next couple of weeks when we really get to drill down into some of those areas and find out what the departments have planned for the future. I support the appropriation.

[12.30 p.m.]

Mr VALENTINE (Hobart) - Mr President, it is always interesting to see what some of these amounts are when we get bills like this coming before us. The member for Murchison said in her offering that she understood the reasons put forward for why the Treasurer's Reserve was not a targeted bucket of money to satisfy these requirements.

Ms Forrest - It was not big enough.

Mr VALENTINE - Yes. An answer was provided during the briefings but I want it placed on record why the Treasurer's Reserve Fund was not targeted and why that has not been emptied. That is why there is a Treasurer's Reserve - to satisfy the unexpected demands. The community deserves to know what the circumstance is there, and whether or not it was emptied before this supplementary appropriation bill came to us.

I understand the need to keep the pressure up on COVID-19. I understand the need to keep our staff safe and keep the messages flowing on COVID-19. I said that yesterday. We need to continue to support the work the Government does on COVID-19 because there are a lot of people in the community who are still vulnerable. This is for money that is needed to meet so-called unexpected demand. I understand the need, as it states here, about the COVID-19-related expenditure.

Since the start of the pandemic, Tasmanian businesses have received more than \$160 million in COVID-19-specific support. When assistance to businesses impacted by the

southern Tasmanian COVID-19 lockdown came out as something the Government was going to address, there was an issue about the turnover and how the turnover was too high for many people to be able to claim assistance. I had discussions with small businesses. They said, 'It is not worth my while, I have to have a turnover of \$3 million and I am nowhere near that'. Yet they were suffering because people were not coming through their door.

I applaud the Government for providing assistance but they need to think of smaller businesses next time they go to that space. If you are a bigger business you usually have capacity to shrink things in a bit and survive. But when you are a small business, it is very difficult. You might have your livelihood on the line, your house, going to the bank for extra money, those sorts of things, trying to keep your business afloat. Small business really does need a leg-up in these circumstances. I remember talking to a couple of cafe owners whose livelihood depends on that single cafe. They were finding it very difficult. I understand that this appropriation is to support small business but look at that turnover, that threshold that is needed before people can apply for that assistance.

I had a question at the briefings on the \$2.5 million in additional funding for the JobTrainer Fund. I thank the Leader for the briefings, which are essential for us to get a good handle on things and are an opportunity to ask some questions. I want to know how the JobTrainer Fund is being applied. Is it through TAFE or is it all providers? TAFE is but one provider, and I am interested to know how that \$2.5 million is being applied. I would not like to think that with certain things that have come to light because of the restructuring of TAFE that this is plugging a gap. There could be some good questions to ask there. I want to understand how these funds are being applied, and through what avenues.

Turning to Finance-General, \$8.46 million for hotel quarantine costs. Swings and roundabouts. If our residents are staying in other states and are not able to get into the state because of border restrictions, it is probably fair and reasonable for us to be coughing up the money to support them. Few would deny that that is a reasonable thing to be doing. They would be unforeseen circumstances and hence the reason they are in this supplementary appropriation.

Turning to \$21.8 million for the Department of Natural Resources and Environment Tasmania and \$11 million for costs associated with the state's ongoing border controls. It is not always easy to predict the costs that are going to arise as a result of having to control our borders. That is probably a reasonable thing, as is the \$7 million for the Parks and Wildlife Service revenue loss. They are not getting the tourists paying the fees which support the network of staff working in those areas. All of those seem reasonable to me.

We then go to the \$8 million to the Department of Education for a range of actions in response to COVID-19, including improvements to ventilation and the like. Was that not foreseen? It would be interesting to know when that was first identified as being needed - or was it the fact that the union complained and the Government reacted? If they immediately reacted to something that was identified as a risk, then obviously there is a need there but I am interested to know at what time was it identified that those improvements were needed.

The Risk Management Fund talks about increasing liabilities relating to workers compensation. Is there any detail about what those increasing liabilities were? Is it the volunteer fire and ambulance officers, for instance? But we dealt with that some time ago; surely that would not be unforeseen. What really happened for the increase in liabilities to

occur and, therefore, the need for this extra money? I know it is an injection for the Tasmanian Risk Management Fund but it talks about:

This funding injection will ensure the Tasmanian Risk Management Fund has a sufficient level of financial assets to meet historic liabilities in the workers' compensation category of the fund.

If they are historic liabilities, why is it coming forward in a supplementary appropriation? Is it because of demands on the fund that have since occurred, that have caused this extra? Or is it because the actuarial assessment was not available at the time that the budget might have been set? Perhaps it was that.

I note \$7.6 million for Police, Fire and Emergency Management, including: \$6.5 million for costs associated with the police enterprise bargaining agreement - that is a result of negotiations, and may have come as needed late in the piece; \$1.1 million to continue funding for the child sexual abuse joint review team - again, that may have come up in an untimely way, thus needing this supplementary appropriation.

\$24 million is provided to the Department of Justice, including \$8 million for the Tasmania Prison Service, and \$1.2 million for the implementation of the wellbeing support program. It is all very well to be tough on crime, but then you are going to get greater prisoner numbers. The more services we have for existing prisoners the better, because it causes recidivism. Rather than this sort of rolling overtime problem that we have, let us place some of that money into a preventive approach to it, and provide the services for prisoners as they are exiting to reduce the recidivism.

It is similar to preventive health. These are long-term things, not short-term. They should not be one budget to the next budget. It should be something that is long term. If you do preventive health measures, you reduce your hospitalisations; if you do prisoner services on exit, you might reduce recidivism. As soon as they get out, they have nowhere to go, they go back to their old mates who are right into crime and then they are back into it. They get three meals a day back in the prison system. We need to break that cycle. We need to stop that from happening, and then we probably would not be seeing these sorts of supplementary appropriations occurring.

The allocation of \$2.3 million is provided to the Environment Protection Authority as part of its structural and organisational separation. Basically, it is the EPA's separation from ministerial control, or I hope that is the way it is. I believe it is important that the EPA is a separate body that can function for the good of the state; is not overtly under the control of a minister; and has interests in promoting certain things. We have released the finfish report, and we heard the community saying that there is a need for this authority to be separated. It is good that it is being separated, but was it something that was not planned? Why is it in a supplementary appropriation? Is this something that only came on the radar mid-year? Is that why some of the EPA funding is now being dealt with through a supplementary appropriation, or is it more expensive than they originally thought? I want to know why that is the case.

The Department of Premier and Cabinet is allocated \$1.75 million, with \$500 000 to do with the Hillcrest Primary School incident. What a tragedy, and quite clearly something that is needed. Who could ever have foreseen that? That is a case where supplementary appropriation may well be needed, but again, something for the Treasurer's Reserve. If the

Treasurer's Reserve is not big enough, then maybe we should be learning over the last few years with the supplementary appropriations being brought forward to budget for a bigger Treasurer's Reserve, so we are not seeing so much coming through.

Mr Willie - Not a lot of scrutiny over that until after the fact.

Mr VALENTINE - No, I understand. This is big. What is it, \$441.739 million? That is a lot of money as a supplementary amount. It is huge.

Mr Willie - It is half a stadium

Mr VALENTINE - Half a stadium, yes. Oh dear. I suppose it pales into insignificance on a national budget, but it is not a national budget we are dealing with. We are dealing with a little state budget and that is a lot of money for a state budget; for our state anyway.

The \$562 000 for the Port Safety Legislative Review. I was reading about that on the Department of State Growth website, and quite clearly it is a significant review being undertaken there, but why is it in the supplementary appropriation? Why would that not be something that would be on the radar right up-front? Is it something that has come out of the blue? Was it the tug incident in Devonport that caused it to come to the fore? If you read what is on the State Growth website it is really a significant review and it may well be a good purpose for the money, but it seems something like that would have been on the radar some time ago and not coming forward on a supplementary appropriation. Half a million dollars basically.

The member for McIntyre has dealt with the MyState Bank Arena, and the Glenorchy indoor multi-sport facility. That multi-sport facility was not part of the original Public Works Committee project as far as I can recall, and there was a blowout there of \$20 million. I think this \$21.6 million is separate to that. I would have to go back and check the books. When you are dealing with a blowout of that much it deserves closer scrutiny and maybe Public Accounts might do that.

Then \$500 000 for the Hobart City Partner Schools, unforeseen. A lot of money there to bring two schools together, a great initiative, except for those who like to send their kids to a single-sex school, but it is a good move most people would appreciate. When you look at the campuses, especially Ogilvie's, it is a fantastic location. Great opportunity for facilities and to combine those two schools. Each of those locations is going to get greater usage as a result, so it is a good move. It surprises me an extra \$500 000 is required and why that would only come up part way through. Maybe that is when it was announced; I cannot remember as to what the circumstance was there.

The Department of Health, \$3.9 million for capital expenditure to replace the department's existing human resource information system with a fully integrated HRIS. We all need good human resource management systems. Having come from that area of work and for so long there was a push to have a single statewide human resource information management system for the whole of the State Service, why is this money being placed into a single system for Health? Yes, it is a complex beast. Yes, it has a lot of different aspects to it when it comes to human resource management. There are rostering systems associated with all of that. Metro has the same requirement. There are others. Prison services have rostering requirements. Surely each of the departments can come together and merge their needs and you have one system, one maintenance avenue and you do it together. Reduce the costs.

Fragmenting it like this does not do anyone any good. I saw it too often. Education had its own. Health had its own. The department of main roads had its own years ago. I will be asking a few questions about the ICT directions when we have budget Estimates. There needs to be a far greater focus on this rather than demounting what was an attempt to put in single systems. It may well be there have been some surprises there, but \$4 million and why supplementary? \$4 million is not a small amount.

Then we have the acceleration of existing road projects of \$2.15 million. That is interesting. I could not attend the Public Works Committee because of what was happening down here. I was not able to attend the northern roads project when the Public Works Committee scrutinised that and I do not know why it would be \$1.3 million allocated to pre-construction activities not foreseen and whether it was actually in that budget. I do not have that before me.

That is my take on some of the things in this supplementary appropriation. I largely support it. I can understand the reasoning and would like some of those questions answered. If they can possibly be answered I would really appreciate that.

[12.53 p.m.]

Ms ARMITAGE (Launceston) - As has been said, \$441 739 000 is an awful lot of money, particularly on top of the previous budget. I note this funding is money that was obviously unknown government budget commitments or, as we have been told, unavoidable costs at the time the previous budget was brought down, such as the \$12 million for the redress scheme and the \$8 million Prison Service pressures, as well as additional infrastructure.

While I am mentioning the Prison Service, and other members have asked questions about the demand pressures, maybe the Leader might be able in her summing up advise if it is all overtime, or is some of that money for people coming in when others are on workers compensation for stress leave? How many people might be, perhaps, on stress leave? My understanding is that the prison services is one of the really high areas for people going off on stress leave. Is it all overtime? Or is part of that for people replacing people who may be on extended stress leave? How do those figures measure up?

Obviously, this is a lot of extra money in a supplementary just before the next budget. I appreciate that COVID-19 has been a challenging time for the Government, for the businesses and the community alike. Like other members, I believe the Government's response in recovery has been commendable. I do not believe anyone could criticise the funding for this response and recovery. The then premier, Mr Gutwein, his government, his ministers, his Treasury team, and not to forget the wonderful state health team have done an excellent job in keeping us as safe as we can be. Of course, everything comes at a cost. I was also interested in the questions asked by other members and will be interested in the answers to those.

I have a couple of queries about accelerated costs. It always interests me. I notice that the Department of Education has \$1.5 million for additional expenditure to accelerate the new Kinder to 12 Penguin District School project and \$850 000 to accelerate the works at the Southern Support School. The Department of State Growth has been allocated \$2.15 million to accelerate existing road projects. I accept it is good to have these things done more quickly. Is this money not about costing any more for those projects but it is coming out of the forward Estimates? Clearly, you might do something quicker, you might have more people on the job and you might start it earlier. However, I would assume that this money is coming now rather

than in the future. It is still the same money, rather than being in the future. To confirm, it is not costing more to accelerate. I would not expect it to, but I have learnt never to guess that might be the case.

Looking at some of the other areas, the member for Hobart mentioned the \$1.2 million implementation of the wellbeing support program for the Tasmania Prison Service. I do not think anyone would disagree that if we can help recidivism and help to keep people stay out of prison, any money we can provide to do that is certainly worthwhile, because the cost of crime is considerable.

The member for McIntyre mentioned the Department of Premier and Cabinet, and the \$1.75 million which included \$500 000 to the Hillcrest Primary School incident. A most dreadful incident and certainly nothing that could be foreseen. Our hearts go out to those people and I am sure many are continuing to suffer. It does not matter how much money you give, no one would criticise there.

The Port Safety Legislative Review: like the member for Hobart, I looked this up on the Department of State Growth website to find out more about it. I am only assuming that it was brought forward now in order to provide work for people in that department to get it started. I could not see any real reason for any rush unless it was something to do with Devonport. However, I understand that probably was not anything to do with the port; it was to do with an unfortunate incident with Goliath Cement. I would not like to say what happened. It was quite interesting to watch the video of those tugs going under. A lot of money is involved there.

Mr Valentine - Hit the accelerator instead of the brake, maybe.

Ms ARMITAGE - We had our boat down there previously, not where the tugs were and I was pleased that we have moved to the Seaport in Devonport. It may be much safer, even though you are jammed in the mud.

I want clarification on a few other areas. The interstate hotel quarantine costs was interesting. I believe that members have asked for a little more of a breakdown in those costs and the \$8.46 million allocation. The Department of Health has the biggest allocation, \$125 million. I want information about the COVID-19 hospital in the hotel, and whether it is still operational. I have had a lot of involvement in the one in Launceston and I was told weeks ago that it was about to close, but I notice it is still operational. I wonder whether that includes those costs and how those costs are going with that hospital hotel area.

I want a breakdown on the costs of the airport and the amount of money that is being spent on upgrades. I can remember flying into Hobart. Launceston was not so bad and I am not being parochial, I am being quite honest here.

Members interjecting.

Mr PRESIDENT - The Hobart air is thicker and rougher.

Ms ARMITAGE - There were possibly more people and more planes coming in at the one time. When I have flown into Hobart there have been a lot of complaints from people, that they were waiting on the tarmac for a long time. There might have been two or three planes all there at the one time. I am not sure if this relates to more people to be able to manage those.

There were quite a few concerns and people were getting quite hot under the collar standing there in the cold waiting, some with little children saying that they needed to go to the bathroom. They needed to move on and no one was allowed to go anywhere.

Looking at all of this with regard to the G2Gs and the airport, the assistance we have had from Tasmania Police has been absolutely amazing, and needs to be mentioned. I do not know how much money has gone into those areas with the G2Gs but the commissioner's department and Inspector Jim Semmons who many of us have had dealings with has been nothing short of incredible.

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

QUESTIONS

TasTAFE - Butchery Training Disruption

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

[2.32 p.m.]

TasTAFE was informed well in advance that the Hobart Showground lease to facilitate butchery training was coming to an end.

- (1) Has the equipment been put into storage?
- (2) Has TasTAFE located another site to facilitate butchery training?
- (3) What training is currently being provided to apprentices?

ANSWER

I thank the member for Elwick for the question. Plans are being finalised to eventually accommodate butchery training within the Drysdale South training facility. This will have the benefit of bringing all food trade areas together at the one site. On-campus training is set to recommence in 2023.

It is important to note that training for the majority of butchery apprentices usually consists of a blended delivery model, with on-the-job along with block training. TasTAFE made sure to schedule block training in a way that accommodated the necessary training prior to the Hobart Showground training site becoming unavailable. This has resulted in no loss of block training and the Government has been assured that no apprentices have or will be adversely affected while the relocation process to the new premises is undertaken.

Individual training plans are negotiated with employers and employees during sign-up of apprenticeship and these continue to be reviewed on a regular basis. This planning process has seen some butchery apprentices trained and assessed 100 per cent within the workplace where their place of employment has suitable facilities and processes to meet all of the training package requirements.

School Attendance for Term 1

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

[2.34 p.m.]

Mr President, I do not think there is an answer to this one but I am going to ask it anyway. I sent this to the Leader's office on Wednesday last week. It is not a particularly difficult question and I would think that the department would have this information located centrally. Can the Government please provide the attendance rates for each school for term 1?

ANSWER

I thank the member for Elwick for that question. I am sorry, I do not have an answer for you but we will chase that up for you with vigour.

Closure of Envorinex - Impact on Industry and Environment

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

[2.35 p.m.]

Mr President, I asked the minister for Primary Industries yesterday about the state's only soft plastics processor, Envorinex, not being available to send soft plastics to any more. I believe the minister has a response. I know that you are not the minister for Environment but this affects agriculture as well so I thought you would be over it.

ANSWER

I thank the member for McIntyre for her question. It is a consideration for me as the minister for Primary Industries but I have an answer for you from the minister for the Environment.

It is unfortunate to hear that a Tasmanian business, Envorinex, has entered into creditors' voluntary liquidation. This is disappointing not just for the owners and staff of the business but also those other businesses that deal with Envorinex, together with the wider northern Tasmanian community.

The Tasmanian Government, through the Department of State Growth, has taken immediate action to support affected workers and retain advanced manufacturing capacity in Tasmania. The Government will work with the liquidators and company as appropriate about the future of the plastic recycling program they have been undertaking.

We are working with the sector to build capacity for processing this type of industrial waste, including direct involvement in reprocessing plastic waste from the aquaculture, fishing and agricultural industries. From 1 July 2022 this investment will be supported by funds from the Tasmanian landfill waste levy. Funds raised from the landfill levy will be invested directly into the waste and resource recovery sector, supporting innovative waste solutions, enabling existing industry, and creating new jobs and businesses for Tasmania.

Wildlife Rehabilitation and Fatalities

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

[2.37 p.m.]

- (1) Can the Government please advise what support, financial and/or in-kind, is available to wildlife carers in our state?
- (2) Do road maintenance staff keep a record of wildlife fatalities on our state roads?
- (3) If so, what is the number for the last three years, year by year?

ANSWER

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

- (1) The wildlife rehabilitation sector plays a critical role in supporting our unique Tasmanian wildlife. The sector includes volunteer wildlife rescuers, veterinarians, wildlife hospitals and wildlife rehabilitators. Wildlife rehabilitators are dedicated community volunteers who are instrumental in providing wildlife with a second chance at life in the wild by providing specialist round-the-clock care.

The Tasmanian Government has allocated \$460 000 over four years in the 2021-22 state Budget to assist the sector to build its capacity and sustainability over the longer term to ensure wildlife rehabilitators are supported to undertake their important work. The department has been working closely with the sector over the past 12 months to develop a community-led Wildlife Rehabilitation Sector Strategy and Action Plan 2022-24. A board of key sector representatives will determine the priority actions and how best to allocate this funding.

In addition, the department is providing in-kind support through an injured and orphaned wildlife coordinator, which was a previous election commitment, to provide secretariat support to the board while they implement the strategy and action plan. It is a 0.2 FTE. A proportion of this funding has been earmarked by the board to facilitate the establishment of a peak body, a statewide guidance and implementation body for the sector. The body will have a role in identifying the funding needs of the sector and securing ongoing funding sources, including funding for wildlife rehabilitators. In addition, there are a number of grants programs available through Wildcare Tasmania and through WIRES Inc, based in New South Wales but now operating in the state to supplement the direct costs associated with wildlife care.

- (2) The Department of State Growth's maintenance contractors are responsible for identifying, recording and removing wildlife fatalities from the state road network.
- (3) The following wildlife fatality events have been recorded in the department's road maintenance information system over the past three years: 2019 - 22 095; 2020 - 22 707; and 2021 - 18 962.

Independent Living Units - Levying of Rates

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

[2.41 p.m.]

I am seeking whether the Deputy Leader might have answers to my questions on the independent living units. I think she was asking behind her. I did ask it on 3 May and it was a follow-up to questions I had previously asked. They were quite simple questions about how much consultation had been done, what themes there were, whether the Government would consider extending the effective date, grandfathering. They were not exactly questions that require a lot of time, I would have thought. I am hoping the Deputy Leader may have the answers.

ANSWER

Honourable member, I understand there is an update coming to your question, but I have been advised there may not be much difference in the answer you have already been provided.

Ms ARMITAGE - I thank the Deputy Leader. My questions were very different, so I am hoping that the questions I now have on the Notice Paper will be answered and they will be different from the ones I received originally, because they are different questions.

Tasracing - Devonport Track Arrangements

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

[2.42 p.m.]

This is a question from 22 March. There are a number of parts to the question.

- (1) Was Tasracing offered an extension to continue using the Devonport track by either the developer or the Devonport Show society? If so, what would be the extension time cost per month?
- (2) Will Tasracing still receive the \$8 million committed by the Government if the dual track at Devonport does not proceed?
- (3) Why has the developer been given a one-month extension to pay Tasracing for the lease?
- (4) What is the quantum that Tasracing has budgeted in total to compensate owners and trainers for travelling when the Devonport track closes, which it has done?
- (5) What is the time frame of the expected need for compensation?
- (6) Have all owners and trainers been notified of the amount of compensation that will be paid and for what period? If not, why not, and when is this information expected to be received?

- (7) What aspects of compensation will be covered in regard to no access to the Devonport training track given that some trainers will spend up to four hours in travelling time, for training, trialling and racing?
- (8) What plan does Tasracing have for the expected rise in numbers of dogs going into the GAP program? They cannot be trained, they cannot race.

ANSWER

I do apologise. I believe the answer has come through, but we do not have it here at the moment.

Ms RATTRAY - By way of explanation, I did receive the responses to my questions outside of sitting time but as always it is important to have it on the public record. That is why I have asked the questions. Perhaps that is why it is not in the folder.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, there has been a changeover with our assistant here coming back so we are getting the paperwork in order. We do apologise but we will be up to date by the end of the day.

MESSAGE FROM THE HOUSE OF ASSEMBLY

Attendance of House of Assembly Ministers at Legislative Council Estimates Committees

[2.45 p.m.]

Mr PRESIDENT - The House of Assembly has agreed to the following resolution communicated to it by the Legislative Council on 25 May 2022.

Resolved:

That the Legislative Council having appointed two Estimates Committees reflecting the distribution of Government Ministers' portfolio responsibilities, requests that the House of Assembly give leave to all Ministers to appear before and give evidence to the relevant Council Estimates Committee in relation to the Budget Estimates and related documents.

Signed Mark Shelton
Speaker
House of Assembly
25 May 2022

**APPROPRIATION (SUPPLEMENTARY APPROPRIATION FOR 2021-22)
BILL 2022 (No. 14)**

Second Reading

Resumed from above (page 29).

[2.46 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I believe I was speaking about the G2Gs and the Tas Traveller Management System at the time.

I was praising Jim and the commissioner's office, because they have been extremely helpful to my constituents and I am sure for many constituents of members in this place. However, my question to the Leader is about the cost of hotel quarantine. I recall many constituents had to pay, unless they were able to get an exemption. How much is outstanding? Are those outstanding amounts going to be written off, or are they going to go to MPS. A lot of people paid that money and it would seem unfair to them if people who did not get an exemption, or were not entitled to an exemption, then had it written off if they did not pay. Will it go to MPS? How much is it? Or it will it simply be written off as too difficult?

Mrs Hiscutt - This is the hotel quarantine?

Ms ARMITAGE - Yes, when people were coming back later on and had to pay themselves. I know it applied to quite a few people. Most of those I dealt with got an exemption. I am assuming there are some where the accounts may not have been paid.

I thank the Leader for the briefings this morning. It was interesting to hear about some of the areas, such as the Tasmanian Risk Management Fund and the \$105 million, but also that the cost of psychological claims is six times as much as the physical claims. It is certainly not something that I had appreciated in the past. I note the appropriation bill. I note that it has already been paid so we cannot be taking any money from it or making any changes to it.

[2.48 p.m.]

Ms WEBB (Nelson) - Mr President, there is very little more to be said on this bill. We have given it a good going over in this place. Thank you to the members who have made substantial contributions on it. We have probably highlighted most individual items here and requested more information about them - as we should. This is a supplementary appropriation, so the things that theoretically were not anticipated in the budget last year, and if they have come into the mix subsequent to that we need to understand why. I am not going to add anything further. I look forward to the Leader's summary.

[2.49 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have a lot of questions to answer. I have never had four pages of my own notes before and I do note the advisers really appreciated the lunchbreak to be able to catch up.

We are hoping we have answered as much as we possibly can. I will work my way through it and see how we go. There are names on the top of some. If members could listen attentively, I am sure all answers will be here somewhere.

We started with, was there an allocation in the 2021-22 Budget? How much has been spent and will there be further costs? The 2021-22 Budget included an original budget allocation of \$30.5 million for hotel quarantine costs. This estimate was based on the hotel quarantine arrangements ceasing on December 2021. The Government extended hotel quarantine arrangements to 31 March 2022, subsequent to the release of the budget. The total costs for hotel quarantine in 2021-22 are estimated to be \$73.3 million; accordingly, a supplementary appropriation of \$42.8 million is required. The hotel quarantine arrangements have ceased and no further costs for hotel quarantine are expected at this time.

Then we spoke about COVID-19 supercharged Micro and Small Business Border Closure Critical Support Grant. An additional \$40 million is provided to meet the estimated costs of extended support for Tasmanian small businesses under the supercharged Micro and Small Business Border Closure Critical Support Grant program. The cost of the program is shared equally with the Australian Government.

The COVID-19 revised estimates of interstate hotel quarantine costs: additional funding of \$8.460 million is required to meet costs charged to the state by other jurisdictions for Tasmanian residents who have had to hotel quarantine in those jurisdictions after returning from international travel. From November 2021, international arrivals were able to quarantine at home. The 2021-22 Budget did not provide an original budget allocation for these costs. To date, almost \$8 million of costs have been incurred.

In 2020-21, the costs of the interstate hotel quarantine program were approximately \$3.6 million, which were funded from the COVID-19 provision.

Ms Forrest - On that, Leader and maybe you are getting to it, I also asked how is it decided and when was it decided the states would pay the other jurisdictions?

Mrs HISCUTT - I will see if I can find some follow-up advice on that one.

COVID-19 border response and the airport expansion: additional funding of \$3 million is required to meet increased costs associated with the Government's initiative to support the state's ongoing border control response to the COVID-19 pandemic. In particular, this provides for the expansion of passenger processing infrastructure at Tasmanian airports to cater for processing of passengers, including surge capacity.

COVID-19 additional education measures to keep Tasmanians safe: there was an additional funding of \$8 million required to implement a range of facilities-related initiatives to assist in responding to COVID-19. The range of actions include improvements to ventilation, such as air purifiers, air conditioning repairs, window audits and repairs. As at 31 March 2022, \$5.23 million has been spent on improvements to ventilation and outdoor learning facilities across the schools, including \$3.2 million for air purifiers, approximately \$1 million for outdoor learning and the remainder on the other improvements. The Department of Education can provide a further breakdown of this expenditure by site.

The redress scheme applications: total costs of approximately \$21 million are anticipated in the 2021-22 years to provide compensation payments to victims of institutional childhood sexual abuse by way of redress or civil claims compensation. An original 2021-22 budget allocation of \$9 million was provided for this purpose, and a supplementary appropriation of \$12 million is required to meet these costs.

The Tasmania Prison Service demand pressures - additional funding of \$8 million is required to assist in addressing correctional staffing cost pressures within the Tasmania Prison Service, particularly in relation to correctional overtime and other costs associated with sustained high prisoner numbers, the impacts of the COVID-19 pandemic, and a shortage of correctional officers.

There were quite a few questions about the EPA in Tasmania. The total supplementary appropriation for the EPA is \$2.3 million, which provides for additional staffing to support increased environmental regulation and assessment activities for the authority, fit-out and rental costs of new accommodation. The EPA was established on 1 December 2021 as a standalone, independent state authority after its structural and organisational separation from the Department of Natural Resources and Environment Tasmania. The EPA is an agency under the Financial Management Act of 2016, and the relevant accountable authority is the Chief Executive Officer of the EPA.

Ms Webb - Through you, Mr President, was there an explanation about why it was an additional appropriation for the \$600 000 for operational services, rather than building and location-related matters?

Mrs HISCUTT - The 2022-23 Budget papers will provide information on the EPA's outputs, which will be subject to the Estimates committee process in the same manner as all other General Government Sector agencies.

Ms Webb - Through you, Mr President, we will not necessarily be looking back at the \$600 000 in this bill. It would be interesting to know why the additional operational money was needed.

Mrs HISCUTT - There was an allocation of \$2.3 million, which provided for additional staffing. Is that not what you are looking for? Do you want me to read it again so you can have a listen?

Ms Webb - No. When I look at the numbers that are mentioned, there is a \$600 000 figure that is part of the money to the EPA, which is additional resources for the EPA. It is not the fit-out costs or the rent. Why is an additional resource required? What changed that required more than what they would have had budgeted for in the first place?

Mrs HISCUTT - It provides for additional staffing to support increased environmental regulation and assessment activities of the authority, fit-out and rental costs of new accommodation.

Additional funding is required to meet the costs of developing the Pathway to Truth-Telling and Treaty Report. It was not for responding to recommendations.

Turning to Health and COVID-19 expenditure, the supplementary appropriation amount of \$125 million is based on estimated COVID-19 health expenditure as at 31 January 2022. As at 31 January 2022, Health estimated total COVID-19-related costs of \$248.2 million for 2021-22, including: testing clinics; purchase of RATs - \$90 million; Public Health and operational response, including call centres - \$39 million; hospital services costs, including pathology and other diagnostic testing costs - \$18 million; personal protective

equipment - \$10 million; vaccination program - \$27 million; non-clinical costs including cleaning costs, including at schools - \$20 million; ambulance costs - \$14 million.

Of the total costs, Health was estimating that \$222.5 million will be eligible to claim under the COVID-19 NPA. If the Commonwealth accepts the full claim, Health will be reimbursed for 50 per cent of those costs, an advised expected reimbursement of \$114.6 million. The remaining \$133.6 million will be funded by the state.

The 2021-22 Budget includes funding of \$8.523 million for COVID-19 vaccination costs. Therefore, unfunded estimated expenditure was \$125 million, which has been included in the supplementary appropriation.

Mr Willie - The question was some of that would have been identifiable and I had a question about when the vaccination program started too and why it was not allocated in the budget.

Mrs HISCUTT - Member for Elwick, could you explain exactly what you are looking for?

Mr Willie - The discussion I had was that some of these things like vaccinations would have been identifiable and probably should have been allocated in the budget. I want to clarify that with the start of the vaccination rollout.

Mrs HISCUTT - I am advised we only understand the additional costs, so your question may be a very good one for Estimates when you get there.

Mr Willie - I am not on that committee.

Ms Lovell - I will ask that for you.

Mrs HISCUTT - The Port Safety Legislative Review: additional funding of \$562 000 is required for a review of the regulatory framework for delivery of port services in Tasmania. The review will examine the delivery of port services including marine pilotage and towage, marine safety functions, the delivery of oil, chemical spill pollution management and response capability under the national and Tasmanian plans.

The GFG Alliance, the Tasmanian Electro Metallurgical Company (TEMCO) acquisition: the allocation of \$2.3 million in the supplementary appropriation bill reflects the costs of stamp duty associated with the purchase of TEMCO by the GFG Alliance group.

On 28 July 2021, the State Revenue Office issued its notice of assessment for duty payable by Liberty Onesteel (Primary) UK Limited for the TEMCO transaction of \$2 348 865. This amount was subsequently paid by the company, as there was no provision in the Duties Act 2001 for the stamp duty to be waived. Following a recommendation from the Office of the Coordinator-General, the previous Treasurer approved a refund of the stamp duty being provided to the purchaser. The refund would help assure the ongoing viability of the Bell Bay operations, which employs approximately 250 in northern Tasmania.

The northern correctional facility: additional funding of \$322 000 is required for expenditure on the northern correctional facility project in 2021-22. The funding will enable

the northern correctional facility capital works project team to undertake community consultation on the potential use of the Ashley Youth Detention Centre site as an alternative site for the northern correctional facility. The allocation for this expenditure is currently included in the 2022-23 forward Estimates. This is a change in the timing of the expenditure only, with no change to the overall project budget.

We move to the Bothwell District School - Agriculture in Schools. Additional funding is required for the upgrade of agricultural facilities at the Bothwell District School to increase and expand agricultural VET programs. The contract has been awarded an expenditure of \$300 000 which is currently reflected in the 2022-23 forward Estimates. It will occur in 2021-22. This assists in mitigating delays in the timing of expenditure for other capital projects. This is a change in the timing of expenditure only, with no change to the overall project budget.

There were a lot of questions about the Treasurer's Reserve balance. The 2021-22 Budget included an appropriation to the Treasurer's Reserve of \$150 million. This allocation reflected the uncertainty that was evident during the 2021-22 Budget development process, primarily relating to the COVID-19 pandemic. This uncertainty has continued post the publication of the 2021-22 Budget, particularly with the emergence of the Omicron variant in late 2021. Through normal within-year budget processes, agencies have raised budget risks, known additional costs and new government commitments. Treasury has reviewed and identified those costs that have been incurred or are highly likely to be incurred before 30 June 2022. Given that these costs exceed the capacity of the Treasurer's Reserve, a supplementary appropriation bill has been prepared based on the following criteria:

- (1) Known COVID-19 responses costs which are primarily in Health.
- (2) Post 2021-22 Budget government commitments.
- (3) Unavoidable costs with high certainty.
- (4) Additional infrastructure cost to reflect changes in the timing of expenditure.

The combined total of the supplementary appropriation bill is \$441.7 million, and a number of budget risks and issues remain that may need to be funded from the Treasurer's Reserve as part of the 2021 end-of-year budget process. These budgets are likely to be lower in value and/or there is some uncertainty about the amount or timing of costs. On this basis, Treasury considers it prudent to maintain some capacity in the Treasurer's Reserve to provide for current budget risks and to fund unforeseen costs that may eventuate before 30 June 2022, including potential increases to costs included in the supplementary appropriation.

Then we have the Hobart City Partner Schools, Ogilvie and New Town High. Additional funding is required for the Hobart City Partner Schools project which will move Ogilvie and New Town High schools to co-educational high school facilities. An allocation of \$500 000 for the enabling of works for immediate requirements is currently included in the 2022-23 forward Estimates. With work well advanced on the Ogilvie campus and New Town works, it is expected that the funding will be required in 2021-22. This is a change in the timing of expenditure only, with no change to the overall project budget.

Then we went to state-funded general education grants. Additional funding of \$4.612 million is required to meet the state government payment to the non-government sector, in accordance with the quality schools, quality outcomes, as part of the National School Reform Agreement. The increase in the payment reflects increases in kindergarten and primary and secondary Catholic and independent school enrolments compared to 2022.

There were some questions about the job trainer extension. The JobTrainer Fund provides grants to endorsed registered training organisations to provide fee-free nationally recognised training for jobseekers, young Tasmanians aged between 17 and 24 and people enrolling in aged care, child care, disability care or digital skills qualifications.

Mr Valentine - Do we get the names of those that have been funded?

Mrs HISCUTT - I will finish to see if there is something there. JobTrainer is funded fifty-fifty by the Australian and Tasmanian Governments. This latest funding boost takes the Tasmanian Government JobTrainer Fund contribution to \$21 million. Eligible registered training organisations can apply for JobTrainer funding from now until 4 March 2023.

There were questions about the interstate hotel quarantine. The Board of Treasurers agreed on 1 April 2020 to share the costs of hotel quarantine for international arrivals according to their state or territory of residence.

Ms Forrest - Just before last year's budget. That is the point I am making. They should have known.

Mrs HISCUTT - What is the cost of MyState Bank Arena? The MyState Bank Arena had a budget of \$63.5 million in the 2021-22 Budget. An additional \$9.6 million is being provided, bringing the total cost of the budget of the project to \$73.1 million. The question was, what does the \$9.6 million relate to? The \$9.6 million relates to known latent conditions, variations and anticipated additional costs.

The TRMF - \$105 million - why is it being funded now when we are in deficit? The TRMF is being provided with additional funding to ensure that the fund has sufficient assets to fully fund the estimated cost of liabilities as at 3 June 2022. The question was, how is the fund calculated or contributions made? Agency contributions are based on the recommendations of the independent actuary. The drivers for workers compensation costs include claims history and the salary costs of the FTEs.

Mr Willie - Before you sit down, I had a question about when that agreement was struck between the Tasmanian Government and Basketball Tasmania? I want a date.

Mrs HISCUTT - I do not have the advisers here who can answer that question.

Mr Willie - Convenient.

Mrs HISCUTT - You can ask it through the Estimates stage or put it on a question without notice.

Ms Armitage - There may be some questions I did not quite hear. Did the Leader answer the question about the MPS?

Mr PRESIDENT - The Leader has sat down so if you have anything else you will have to follow it up in the Committee stage. There is plenty of opportunity to pursue it there.

Ms Armitage - Thank you, Mr President, I shall.

Bill read the second time.

**APPROPRIATION (SUPPLEMENTARY APPROPRIATION FOR 2021-22)
BILL 2022 (No. 14)**

In Committee

[3.17 p.m.]

Madam CHAIR - Before we start on the bill, to help members prepare for the next big one coming, the budget perhaps, and also to help the member for Huon appreciate that the process is a bit different here from a regular bill, we will deal with the first three clauses. Clauses 4 and 5 will be postponed. That relates to the amount of money to be appropriated. Then we will get onto the schedule. Schedule 1 deals with the details of the appropriation.

The Deputy Clerk will call the schedule in an itemised fashion, as per our usual custom and practice, with the minister, the operating services then the capital services. Try to put your questions under the minister, whether it is an operating or a capital expense. If you are not sure, the Leader will perhaps direct you to the right one. When we have gone right through the schedule, we will agree the schedule. Hopefully, we will proceed in that way.

Clauses 1, 2 and 3 agreed to.

Clause 4 -

Issue, application and appropriation of \$441 739 000

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

That the clause be postponed.

Clause postponed.

Clause 5 -

Purpose of appropriation

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

That the clause be postponed.

Clause postponed.

Clause 6 agreed to.

Schedule 1

Department of Communities Tasmania, Minister for Community Services and Development, Operating Services - **item agreed to.**

Minister for Sport and Recreation, Operating Services - **item agreed to.**

Capital Services - **item agreed to.**

Department of Education, Minister for Education, Children and Youth, Operating Services - **item agreed to.**

Capital Services

Ms ARMITAGE - Madam Chair, my earlier question to the Leader was about accelerated expenditure, for example, to accelerate the new high school project. I assume it is not costing more by doing it earlier - it is coming out of forward Estimates, and it is still going to be the same amount? The moneys are brought forward now rather than later?

Mrs HISCUTT - Yes, the member is correct. The only thing that is different is \$9.6 million for MyState.

Capital Services - **item agreed to.**

Finance-General, Treasurer, Operating Services - **item agreed to.**

Department of Health, Minister for Health, Operating Services - **item agreed to.**

Capital Services - **item agreed to.**

Department of Justice, Attorney General and Minister for Justice, Operating Services - **item agreed to.**

Department of Justice, Minister for Corrections and Rehabilitation, Operating Services -

Ms ARMITAGE - Regarding the \$8 million, the question I asked was whether a lot of the money was going to overtime or to officers who were on stress leave. The answer given was that there was a lack of correctional officers. Is that owing to officers being on stress leave, and if so, how many?

Mrs HISCUTT - To reiterate, the additional funding of \$8 million is required to assist in addressing correctional staffing cost pressures within the Tasmania Prison Service, particularly in relation to: correctional overtime, and other costs associated with sustained high prisoner numbers; the impact of the COVID-19 pandemic; and a shortage of correctional officers. I do not think that addresses your question specifically. We do not have any more level of detail here, but you may like to ask that question during the Estimates process.

Item agreed to.

Capital Services - **item agreed to.**

Department of Justice, Minister for Workplace Safety and Consumer Affairs, Operating Services - **item agreed to.**

Department of Natural Resources and Environment Tasmania, Minister for Parks, Operating Services - **item agreed to.**

Capital Services - **item agreed to.**

Department of Natural Resources and Environment Tasmania, Minister for Primary Industries and Water, Operating Services - **item agreed to.**

Department of Police, Fire and Emergency Management, Minister for Police, Fire and Emergency Management, Operating Services - **item agreed to.**

Department of Premier and Cabinet, Premier, Operating Services - **item agreed to.**

Department of State Growth, Minister for Hospitality and Events, Operating Services - **item agreed to.**

Department of State Growth, Minister for Infrastructure and Transport, Operating Services - **item agreed to.**

Capital Services - **item agreed to.**

Department of State Growth, Minister for Skills, Training and Workforce Growth, Operating Services - **item agreed to.**

Department of State Growth, Minister for State Development, Construction and Housing, Operating Services - **item agreed to.**

Environment Protection Authority, Minister for Environment and Climate Change, Operating Services - **item agreed to.**

Schedule agreed to without amendment.

Postponed clause 4 -

Clause agreed to.

Postponed clause 5 -

Clause agreed to.

Title agreed to.

Bill reported without request and without amendment.

Third reading made an order of the day for tomorrow.

CRIMINAL CODE AMENDMENT BILL 2022 (No. 4)

Second Reading

[3.27 p.m.]

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

That the bill be now read a second time.

Mr President, the Criminal Code Amendment Bill 2022 delivers on the Government's clear commitment to strengthen non-fatal strangulation laws by introducing a new standalone criminal offence for strangulation under the Criminal Code Act 1924, the Criminal Code.

This has been prioritised for the development of this important reform in recognition that non-fatal strangulation, choking or suffocation, is a significant form of violence which can unfortunately be a precursor for escalation in the severity of family and domestic violence.

This is in response to community calls for the strengthening of our laws since the coroner's 2019 recommendation that the government consider creating a strangulation offence. In that case, the coroner was responding to the tragic homicide of a Tasmanian woman, where it was noted that non-fatal strangulation was a risk factor for homicide, and that increased awareness and a targeted response to this issue are necessary from the medical, policing, counselling and law reform sectors. The coroner was concerned that an existing criminal offence involving choking was limited to circumstances where the choking is done with intent to facilitate other offences, and would likely not apply to a variety of situations, including family violence.

In addition, the extensive work of the Sentencing Advisory Council regarding the various laws that operate in other states and territories has informed the development of the amendments. Accordingly, the Government is pleased to be progressing this bill which amends the Criminal Code to introduce a standalone criminal offence of non-fatal strangulation, choking, and suffocation, which recognises the seriousness of this behaviour by allowing it to be charged and prosecuted as a specific crime.

The second key amendment in the bill relates to the definition of 'consent', to expressly address conduct that is colloquially known as 'stealthing'. Stealthing is a form of rape, as the victim has not given free agreement to sexual intercourse without a condom, such as circumstances where a person deliberately removes or damages a condom during sexual intercourse without the knowledge and consent of the other party.

While the criminal behavior which these amendments address can be prosecuted under existing law, the Government is mindful of the significant value that specific, targeted offences can have in terms of increasing community education and awareness of criminal behaviour. This, in turn, leads to positive flow-on effects regarding reporting and prosecuting offences and providing further support to victims and survivors.

I will now turn to the amendments in more detail.

Strangulation. The bill inserts a new section into the Criminal Code stating that a person who intentionally or unlawfully chokes, suffocates or strangles another person is guilty of a crime. Strangulation, choking or suffocation is an abhorrent form of violence. It carries risks of serious physical injury and/or death, and can often lead to further family violence behaviour. This bill appropriately recognises the seriousness of this conduct, so that it can be charged and prosecuted as a specific indictable offence. Until now, assault has been the main offence for non-fatal strangulation. The development of the bill took into account the advice on sentencing matters in the Sentencing Advisory Council 2021 Research Paper 5, Sentencing for Non-Fatal Strangulation. This work examines Supreme Court data for the period 2010 to November 2020. In that time 77 cases were identified where acts of non-fatal strangulation were sentenced, and 54 of them - or 70 per cent - involved family violence.

As the Sentencing Advisory Council notes in its advice, the role is to provide the Attorney-General with policy advice on sentencing matters, rather on the merits of standalone offences. As such, its commentary on sentencing outcomes was useful to reinforce the gravity of this conduct and has informed the development of the amendments in the bill. In deciding to introduce a standalone offence, consistent with the coronial recommendations of 2019 and the laws of other jurisdictions, the Attorney-General is pleased to say that strangulation charges will now be on the offender's criminal record.

In consideration of the council's report, the Attorney-General is also satisfied that strangulation can clearly be treated as an aggravated factor, but a standalone offence goes even further and delivers on the important objective of identifying this conduct as a serious crime in its own right. The council found that sentencing for assault involving non-fatal strangulation has resulted in heavier sentences being imposed compared to sentencing for assaults generally. That is, there were more sentences of imprisonment imposed for assault involving strangulation. The median sentence for imprisonment imposed was also more than double; namely 24 months compared to 10 months.

Accordingly, the new offence gives strangulation clear recognition as serious criminal behaviour supporting these sentencing trends. It is important to clarify the new offence does not stop prosecutors charging even more serious offences, such as attempted murder in appropriate cases. This approach ensure prosecutorial discretion is not disturbed.

The crime will be dealt with on indictment in the Supreme Court with a maximum penalty for Criminal Code offences being 21 years imprisonment. Importantly, the new offence will apply whether family violence is involved or not. The crime is also one of specific intent meaning that the Crown must show that the accused intended to cause the act of choking, suffocation, or strangulation. Those acts are not defined in the legislation, so that the words will have the ordinary meanings that change and evolve over time in line with community expectations. This is intended to capture an appropriate range of conduct without imposing arbitrary requirements, such as the conduct causing a person to stop breathing altogether. It is considered that the inclusion of legislatively defined terms would inappropriately narrow the offence.

The bill also provides for alternative conviction provisions relevant to other Criminal Code offences. That is, the Criminal Code provides that a person charged with specific offences may be convicted of an alternative offence instead of the one charged, provided that the offence establishes that the alternative offence has been committed.

The trial judge must be satisfied that there was sufficient evidence presented at the trial to try or convict the person of the alternative crime or offence. The bill inserts a new provision for alternative convictions regarding the crime of attempted murder. The new section 333A provides that upon an indictment of attempting to commit murder, the excused person may be convicted of an unlawful act intended to cause bodily harm or strangulation. This addresses the current issue where no alternative conviction provision exists for attempted murder. Under the bill, if the jury finds the person not guilty of the crime with which they are charged, they may be convicted of the alternative crime if it is established by the evidence to have been committed. Similar provisions like strangulation and available alternative conviction on charges of an unlawful act intended to cause bodily harm, wounding or causing grievous bodily harm and persistent family violence. The bill also provides for an alternative offence of assault where a person is charged with strangulation. This will ensure that, in appropriate cases, if the jury was to find a person not guilty of strangulation, a finding of guilt for assault could be made.

The strangulation offence has also been added to appendix A of the Criminal Code which lists crimes for which an offender may be arrested without warrant. This broadens the arrest powers for police regarding the strangulation offence.

Mr President, I now touch on 'stealthing'. The bill also amends the definition of consent in section 2A of the Criminal Code to expressively recognise stealthing. Tasmania has an expansive and progressive definition of consent, we led the country in introducing strong reforms to define 'consent' by referring to 'free agreement'.

Section 2A incorporates a non-exhaustive list of scenarios in which there can be no free agreement. For example, a person does not freely agree if a person does not say or do anything to communicate consent. The inclusion of a specific provision for 'stealthing' into this section will provide even further clarity on free agreement to sexual intercourse, building on the existing strengths around our consent laws.

Express recognition of this abhorrent nature of stealthing may assist with education, discourage would-be offenders and support the making of complaints and prosecutions for sexual offences in appropriate circumstances.

To look at the detail of the provision, the person does not freely agree to an act of sexual intercourse in the specified circumstances. That is, where the person says or does anything to communicate to the other person that a condom must be used for that sexual intercourse and the other person does intentionally not use a condom, tampers with or removes the condom before or during intercourse.

Sexual intercourse without consent is rape, consent requires free agreement. By clarifying stealthing, as set out in the bill, meaning free agreement has not been given, we are ensuring there is clarity that stealthing is criminal and it can go to proving a charge of rape. Like strangulation, rape has a maximum penalty of 21 years imprisonment in the Criminal Code and is sentenced in the Supreme Court. The new subsection expressly states that it does not limit the application of the existing law of free agreement in section 2A(2) to an act of sexual intercourse. That is, the section also contains other non-exhaustive provisions for where a person does not freely agree to an act. For example, a person does not freely agree to sexual intercourse if the person submits because of fraud, or is asleep or unconscious or submits because of force or threats.

In closing, broad public and stakeholder consultation was undertaken to inform the development of the bill. The Government wishes to thank those who made comments in response to the draft legislation. In addition, the department has worked closely with the Office of the Director of Public Prosecutions in the finalisation of this bill and the elements of the offence.

We have listened to our stakeholders and the community in introducing these amendments, which further ensure our laws are strong and robust to protect victims/survivors of family violence and ensure perpetrators are appropriately held to account for any criminal conduct or behaviour. I commend the bill to the House.

[3.40 p.m.]

Ms ARMITAGE (Launceston) - Mr President, domestic violence and abuse are a hidden and most insidious scourge in our society. I will not regurgitate statistics but everyone in this room would likely know someone who has been directly or indirectly affected by it. Women and children are particularly vulnerable and we, as lawmakers, need to do what we can to ensure that vulnerable classes are protected and that we enact legislation in line with community expectations.

Non-fatal strangulation and stealthing are acts that can happen in intimate settings. There are usually no witnesses and establishing an alleged perpetrator's guilt is an extremely difficult undertaking. This bill reflects the inherent danger of strangulation. We need to make sure that legislation surrounding domestic abuse and violence is not just informed by community expectations but also by evidence-based understandings of context and other risk factors that dovetail with it.

Victims of non-fatal strangulation are seven times more likely to be victims of future homicide. Non-fatal strangulation is a risk factor for homicide and escalates as time goes on, and abuse and violence become more extreme.

The existing law, such as section 168 of the Criminal Code, limits circumstances involving choking to those where there is an intent to facilitate other offences. Specifically addressing non-fatal strangulation in the context of family violence and abuse is, therefore, imperative. I refer to Women's Health Tasmania who comment in their support for these legislative measures that the creation of a standalone offence in its current form:

- (1) Recognises the voices of survivors of non-fatal strangulation and the advocacy of specialist family violence services.
- (2) Demonstrates to the community, the judiciary, the police the seriousness of non-fatal strangulation.
- (3) Increases awareness of non-fatal strangulation as a 'red flag' for future homicide or serious injury.
- (4) Codifies what is already recognised in sentencing guidelines and judicial rulings as a dangerous tactic of family violence.

Justice Estcourt, in the DPP v Foster case, stated that:

... strangulation is a form of power and control that can have devastating psychological long-term effects on its victims in addition to a potentially fatal outcome.

Moreover, enacting this legislation will mean that earlier intervention can take place within the judicial system. It also means that victims/survivors will have a greater chance to avoid reaching the stage where non-fatal strangulation becomes more extreme and violent, that they have greater access to the justice system and that they have more opportunities to receive support, counselling and medical treatments or interventions.

While I completely support this bill, I was curious about the insertion of the word 'unlawful' into clause 170B. It was answered this morning in briefings but I think it is worth asking it again, on the record, to get some detail.

My question was, is showing that a strangulation, choking or suffocation to be unlawful, as an entirely separate element, necessary for the offence to be established? Why would strangulation, choking or suffocating not be treated as a prima facie unlawful act? Is the addition of the word 'unlawful' to this clause really necessary and will it help achieve the goal of strengthening non-fatal strangulation laws, as the Leader stated in her second reading speech? As I said, we did have an answer this morning in the briefings but I think it is worth putting it on the record.

Stealthing is another act that happens in intimate settings which puts people at significant risk and harm. We have seen cases over time, such as the R v Cuerrier case in Canada in the 1990s, where it was established that deliberate non-disclosure of a person's HIV-positive status when they had unprotected sex constituted a prosecutable crime.

However, we should not allow the law to be reactive to cases like these, even if they are not always quite as extreme as a disclosure of a person's HIV status. Stealthing interferes with a person's sexual integrity and their ability to meaningfully consent to sexual acts. As we are all aware, sex without consent is, by definition, rape. The creation of stealthing as its own offence advances the law significantly towards what is expected by the community regarding sexual assault and sexual crimes. It is important to legislate on crimes that put vulnerable classes at risk. Stealthing is one such type of offence.

We, as lawmakers, must proactively legislate on offences that interfere with people's most intimate bodily agency and integrity. We should also continue to enact law reform measures like these that are evidence-based and reflect the standards and expectations of our community and of victims/survivors. The discrete amendments in this bill line us up with some of the other jurisdictions that have already made these changes.

Mr President, I support the bill.

Recognition of Visitors

[3.45 p.m.]

Mr PRESIDENT - Before I call for the next speaker I welcome some guests to the Chamber today. We have visitors who are cadets from the Department of Natural Resources and Environment. Some general guests have also joined us. We are currently debating the Criminal Code Amendment Bill. We are in the stage that is referred to as the second reading,

where members speak on the principle of the bill. It will then go into Committee. At the end of that process it will be voted on. I join with all members in saying welcome to the Chamber and we hope you enjoy our debate.

Members - Hear, hear.

[3.46 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I rise to support the Criminal Code Amendment Bill 2022. It has been a while since we had our briefings but I acknowledge the briefings we had in regard to this bill, particularly from the representatives of the Women's Legal Service. We also received a representation and presentation from somebody who had been through it.

Ms Forrest - Was that Deborah Thomson?

Ms RATTRAY - It was. Very brave to come forward like that.

Non-fatal strangulation is a form of family violence that involves cutting off the air or blood supply to someone's brain. In the family violence context, it is most often perpetrated through the manual application of force - put in another way, someone's hands around your throat. Deborah Thomson, who addressed the Legislative Council in November 2020, spoke of her personal experience of the immediate and ongoing impacts of non-fatal strangulation. It is, if you dare to imagine, a terrifying experience.

It is used by a family violence perpetrator as the ultimate form of control, revealing their power to decide if you live or die. The difference between surviving or dying can be a matter of seconds and the risk is not over once the offender releases their grip. Immediate physical impacts of non-fatal strangulation can include loss of consciousness, stroke, seizure and brain injury. Longer lasting consequences include neck pain, bruising, swelling, burst blood vessels in the eyes and under the skin, difficulty breathing and swallowing and changes to the voice. However, often there can be no physical signs at all, making it hard to identify and document injuries.

There are also ongoing psychological impacts, including post-traumatic stress disorder, fear, anxiety, depression, memory loss, nightmares and dizziness. Horrific.

Then there is the ominous foreshadowing of future risk. Survivors of non-fatal strangulation are seven times more likely - seven times - to be killed by their intimate partner later compared to other family violence victims who have not experienced non-fatal strangulation.

This legislation, in my view, sounds a warning bell and a call to action for all those who work on the front lines of family violence and those who support women in the aftermath. As we know, legislation helps set the tone of our society from the top down. We all understand law is not designed simply to punish offenders, but to set clear standards for unacceptable and abhorrent behaviour. In implementing a standalone offence, we are sending an unequivocal message this will not be tolerated in our community. We state clearly this offence is dangerous. It is terrifying. It is a sign of escalating violence, usually toward women.

Research suggests women are 13 times more likely to be the victim of non-fatal strangulation than men. This means this legislation directly addresses violence against women. Tasmania has some of the most progressive family violence legislation in the country. We led the way in 2004 with our Family Violence Act, which entrenched offences for emotional and economic abuse. However, we know that our law is only as good as our ability to uphold it, enforce it, police it and support those impacted by it. The introduction of a standalone offence for non-fatal strangulation is a great step. But it is the first in a journey that requires education to our frontline services and that includes police, and support to specialist services working with women every day to help keep them safe.

Up until this point, there has been no standalone offence for non-fatal strangulation. This meant if a perpetrator was identified and prosecuted, they were usually facing a charge of assault. Assault is a broad church, encapsulating various encroachments on the body, including if you grab someone's wrist, pull their hair, slap them. All of this offending is serious, especially in the family violence context. However, to specifically track the risk of homicide to a victim, we need to be able to track a history of non-fatal strangulation. The implementation of this offence will help us do that.

Until now, Tasmania has been getting better at prosecuting non-fatal strangulation in a way that recognises the seriousness of the offence and the risk it poses to victims. The Tasmanian Office of the Director of Public Prosecutions has guidelines that state that offences of this nature should be regarded as grave criminal conduct, and prosecuting it as an indictable offence should be considered. However, where non-fatal strangulation has not been charged as an indictable offence, or not categorised properly by the first responders and prosecution, it remained possible that an offence of this serious nature fell through the cracks.

As an example, in July 2019, Coroner Olivia McTaggart released her report into the 2014 death of Ms Jodi Michelle Eaton. Ms Eaton was killed by Mr Darren Dobson as a result of strangulation. The coronial report found Mr Dobson had a pattern of attempting to strangle women, some of whom were his partners, some were not, dating back to August 1997. In August 2012, he had been sentenced to a wholly suspended sentence of two months imprisonment for a charge of assault, for grabbing his partner by the throat. He was again charged with assault for choking his partner in February 2013 and was in fact on bail for that offence at the time of Ms Eaton's murder.

It is the intention of this legislation that should these circumstances arise again, an offender of this nature would be properly categorised, charged, and sentenced based on the seriousness of his offending. Coroner MacTaggart's sole recommendation was:

... Tasmanian government give consideration to the enactment of an indictable offence of choking, suffocation or strangulation applicable to both the domestic violence situation and generally.

I agree, evidenced by my support for this legislation. Tasmania, up until this point, had been an outlier. Queensland, New South Wales, Victoria, South Australia, Western Australia and the ACT, as the member for Launceston already indicated, have all introduced a separate non-fatal strangulation offence. The introduction of this new offence will, when coupled with education and training, highlight the dangers of non-fatal strangulation to police and first responders, those working within our court systems and to members of the public more generally. It will not continue to let the risks go unnoticed.

I support the further amendments of this bill in clarifying the offence of stealthing. It is currently unlawful to have sexual intercourse with someone without their consent. Consent is interpreted in section 2A of the Criminal Code Act 1924, to mean free agreement. Although it is arguable that the crime of stealthing is already captured in the definition of consent, removing any ambiguity around this is crucial, as there is no precedent within Tasmania where stealthing has been successfully prosecuted. Information in the submission from the Women's Legal Service Tasmania has shown that when women have attempted to make complaints to Tasmania Police, in relation to stealthing, they have been told there were no criminal options available to them.

Clearly setting out that the removing, tampering or not wearing a condom without consent is a crime will give options to women who have experienced this violation. This is an important amendment to our Criminal Code and I was pleased to receive not only the Women's Legal Service information but we also received some Engender Equality information. I will not read it out, but they fully supported this.

It was interesting and pleasing to see we were provided with a copy of a letter from Andrew Wilkie MP, Independent member for Clark - perhaps he is called teal Independent member for Clark now. He also wrote to the Attorney-General supporting this amendment, so there is general backing for this. As I said in the briefing, let us get on with it.

[3.58 p.m.]

Ms FORREST (Murchison) - In terms of full disclosure, particularly as the member for McIntyre mentioned the report of Engender Equality, I declare I am a board member of Engender Equality and as such participate in discussions at board level about the importance of these matters and I fully support the bill.

I commend the Government, not just from the position on gender equality, but as a woman, as someone who has observed the impacts of both these offences we are dealing with in this bill, supported victims/survivors of both of these crimes, to try to find justice, and I and others from this place have advocated for the inclusion of standalone offences particularly with regard to non-fatal strangulation in this place.

I am losing my voice, I have been talking too much in other motions. This is a key part of our legislative framework that seeks to protect victims of family violence, sexual assault and rape and ensure perpetrators are held to account for the crimes they commit, in whatever form they perpetrate these abhorrent crimes. These crimes take away a woman's agency.

The second aspect of the bill also promotes and supports the importance of full consent during a sex act, a matter I will comment on more fully later.

The bill introduces the new standalone criminal offence for strangulation, or non-fatal strangulation, but it is termed strangulation under the Criminal Code Act 1924. As I said, I and many other advocates for strong, targeted legal protections, have sought such reform, particularly in light of the alarming number of victims of family violence.

Despite many positive government actions around the country, we still see one woman a week murdered by a current or former intimate partner. This is a sad indictment on our society for many reasons, including that we do not appear to be offering effective evidence-based

programs to perpetrators that directly address their abusive behaviours. It is no good just throwing them in prison. We have to do something to change the behaviour.

We know that many perpetrators are repeat offenders. That is why it is important that a conviction for strangulation will appear on their criminal records. Many are repeat offenders, abusing previous partners, and for many a stint in prison does not, in the main, deter them from reoffending.

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

CRIMINAL CODE AMENDMENT BILL 2022 (No. 4)

Second Reading

Resumed from above.

[4.32 p.m.]

Ms FORREST (Murchison) - Just before the afternoon tea adjournment, I was making the point we know that many of the perpetrators of family violence, and particularly actions such as coercive control and non-fatal strangulation, which often go together, are repeat offenders. They have abused previous partners and even a stint in prison sometimes does not change their behaviour to any great degree. We need to take a different approach on that.

We also know that non-fatal strangulation, choking or suffocation is a precursor to the escalation of the severity of family and domestic violence, as the Leader stated. I call it a red flag murder. Sometimes murder is the first thing that happens in terms of physical violence, particularly in a coercive controlling relationship. It can be all-controlling behaviour until the point of murder. It does not always involve physical abuse before that tragedy. Non-fatal strangulation is an absolute red flag to more serious physical violence and particularly murder. As such, non-fatal strangulation must never be ignored or not taken seriously.

This is obviously a part of the education approach that it needs to be ensured that all frontline police officers, all of them working in that service, have a really good understanding of - our frontline workers across all the services and also women themselves. People who are victims of that violence themselves need to understand that someone putting their hands around your throat is a very serious act.

The reality too is that it can be achieved, the act of non-fatal strangulation, without leaving any physical marks on the victim's body. This is particularly relevant where you have a victim of coercive control who has been gaslit to the point they doubt their own sanity, they doubt their own memory, they doubt their own ability to recall the events, particularly if they have lost consciousness during the event. They will recover from that incident and be told it did not happen. There are no marks to see. For that person, it confirms for them they are losing their mind. The gaslighting has been so effective that they completely doubt what has happened. Sadly, many women who are victims of family violence currently do not fully appreciate the risk. I believe this legislative change will enable a much more obvious explanation and description of this as the serious offence it is.

Creating a standalone offence will assist in raising awareness of this dangerous aspect of family and domestic violence, as well as to other victims of violence, and signal to victims that it is serious. As the Leader stated, the tragic death of a Tasmanian woman has informed this legislation. The Leader noted that the coroner was concerned that an existing criminal offence involving choking was limited to circumstances where the choking is done with the intent to facilitate other offences, not an offence on its own. This would most likely not apply to a variety of situations, including family violence.

When I have discussed the need for legislation to create a standalone offence for the crime of non-fatal strangulation, many have been shocked to think this is not actually a standalone offence already. They just assume it is. They say, 'Surely that's illegal, surely that's a crime'. I am sure Tasmanians will be pleased to know that when this passes through the processes, it will be a standalone offence and will also be clearly on the person's criminal record.

A person who intentionally and unlawfully chokes, suffocates or strangles another person is, and should be, guilty of such a crime. I note the comments from the member for Launceston about 'unlawfully choking' and we raised this in the briefing. I know that some people, during consensual sexual activity, may participate in aspects that involve choking and non-fatal strangulation. I do not know where the point of consent tips over to 'this is not okay' and when it is. But we do know it is part of some people's sexual preferences and practices, and that would not be considered unlawful provided the consent was there. That is a tricky, grey area. I would be interested if the Leader has anything else to add to that.

Mr Valentine - Very hard to prove.

Ms FORREST - That consent was given?

Mr Valentine - Yes.

Ms FORREST - If the person survives, they could probably advise about that. Unless it was being done as an aspect of a controlling relationship. Then you would have to question the validity of the consent.

Strangulation, choking or suffocation is an abhorrent form of violence. It carries the risk of serious physical injury and even death, and can often lead to further family violence behaviour. I know many members have heard from survivors of non-fatal strangulation such as the amazing Deborah Thomson, who survived appalling abuse and has been a vocal, effective advocate for change. I commend Deborah. She has worked extraordinarily hard to get the points across and to be an advocate, despite the injuries she incurred as a result of extended periods of exposure to family violence, including instances of non-fatal strangulation and other abhorrent acts. Non-fatal strangulation, choking and suffocation are extremely serious and harmful behaviours. This change will enable perpetrators to be charged and prosecuted with a specific crime.

We also know there are many other insidious and harmful forms of family and domestic violence. Many of these, as I have said, do not include physical violence and therefore may be less visible to family and friends of the victim. We also know that many forms of coercive control are extremely harmful and debilitating for the victims. Sometimes the first act of physical violence perpetrated on a victim is murder.

Some victims of non-fatal strangulation, where they are also victims of coercive control, may not appreciate the seriousness of their partner putting his hands around their throat, even to the point of unconsciousness. They need to be helped and convinced of the seriousness of this, particularly if they are told it did not actually happen. We need all Tasmanians to know that this is very serious and totally unacceptable. We need to empower victims to realise the seriousness and report it to the police.

I note and commend the extensive work of the Sentencing Advisory Council regarding the various laws that operate in other states and territories, as has been alluded to by other members. This has informed the development of these amendments, particularly with regard to the sentencing options. As the Leader described, the Sentencing Advisory Council provides the Attorney-General with policy advice, not on whether there should be a crime or not, but how it should be sentenced. The Leader noted the Sentencing Advisory Council's commentary in the report to the Attorney-General on sentencing outcomes. It was useful to reinforce the gravity of this conduct and thus has informed the development of the bill.

I want to restate some of the matters raised in the SAC report, some of them mentioned by the Leader, as I believe it is important to reflect on the seriousness of this crime. I note that strangulation can already be treated as an aggravating factor but a standalone offence goes even further and delivers on an important objective in identifying this conduct as a serious crime in its own right.

The council found that sentencing for assault when it involves non-fatal strangulation has resulted in heavier sentences being imposed compared to sentences for assaults generally. That is significant, and this will assist in that. There were more sentences of imprisonment imposed for assault involving strangulation rather than assault on its own. The median sentence for imprisonment imposed was also more than double, namely 24 months compared to 10 months. Accordingly, the new offence gives strangulation clear recognition as serious criminal behaviour, supporting these sentencing trends. It will give clear guidance to the courts.

It is important to clarify that the new offence does not stop prosecutors charging for an even more serious offence such as attempted murder in appropriate cases, depending on the evidence that is before them. This approach ensures prosecutorial direction is not disturbed and the full range of options are available.

The crime will be dealt with on indictment in the Supreme Court with a maximum penalty for Criminal Code offences being 21 years imprisonment.

Importantly, these new offences will apply whether family violence is involved or not. There were some questions raised about that in some of the submissions and the debate more broadly. I was interested to read in the second reading speech that in the 77 cases involving non-fatal strangulation identified from 2010 to 2020, 70 per cent of them related to family violence. That is the primary focus. However, if two men are fighting in a pub or out on the street and one puts his hands around the throat of another, that can have a similar impact and should be able to be prosecuted as such.

I note that the bill ensures that the court and jury will not be constrained in ensuring that perpetrators are held to account for crimes where there is evidence to support the crime for which a person is being tried. As the Leader said, new section 333A provides that upon indictment for attempting to commit murder, the accused person may be convicted of an

unlawful act intended to cause bodily harm or strangulation. I guess it all comes down to the amount of available evidence. It will be difficult in cases where there are no physical marks on the body of the victim. You really feel for those because some perpetrators are very good at covering their tracks and hiding the abuse. This addresses a current issue where no alternative conviction provision exists for attempted murder.

I am not a lawyer or a police prosecutor and I do not fully understand the weight of evidence needed to support the decision to charge a person with attempted murder. I would think in the cases where a victim of the offence is also a victim of coercive control - appreciating the seriousness of that crime and even doubting in her mind that the offence actually occurred such is the impact of coercive control - it is important there are avenues to charge and convict a perpetrator on what evidence you can.

As we said, and I think the member for McIntyre referred to as well, Tasmania has been leading the charge in a lot of our family violence legislation and consent legislation, which I will get to in a moment.

Under the bill, if a jury finds a person not guilty of a crime of which they are charged, say attempted murder, they may be convicted of an alternative crime established by the evidence to have been committed. It gives more options for the court. Similar provisions make strangulation an available alternative conviction on charges of an unlawful act intended to cause bodily harm, wounding or causing grievous bodily harm and persistent family violence.

I commend the Government and the current and past ministers for the prevention of family violence and the current and past attorneys-general for their ongoing commitment to ensuring Tasmania has nation-leading and contemporary legislative frameworks to address this family violence national crisis.

I know we will be dealing with further amendments to legislation in this place and I welcome that also. However, we need to not only focus on the events after the occurrence, the ambulance at the bottom of the cliff is dealing with the problem after it has occurred. We also need to build the fence at the top. To do this we need to address all aspects of inequality and lack of respect for women. Women are not the problem.

We need to take a much greater proactive approach to assisting perpetrators. This can be a difficult conversation to have. How are we going to help the perpetrators when generally women are the victims? Women are not the problem, men predominantly are the problem. We need to break the cycles of violence and abuse. We need to see gender equality and respect displayed in the workplace, in this workplace and every workplace.

In my 17 years here, I have seen and experienced many appalling displays of disrespect, misogyny and the power of the patriarchy. I have witnessed most forms of abuse, including verbal, emotional and sexual here in this parliament and we must set an example and lead by example. We have seen examples of this happening in many workplaces around the world and around the country. We have seen some lack of regard being paid to it, or paid to the issue of a lack of respect. I think the federal election points to that, with the election of so many women who have stood on a platform of climate change, integrity and women being heard.

We need to call out and speak up against any incidences we see and not walk past. It is hard to do, it is hard to be - it is easy to be a quiet bystander who steps back. It is much harder

to step forward and be the proactive bystander. But, in doing so, you could save someone's life and you could save them serious injury. I am not suggesting this is easy but it can be done in a safe way. However, if we do not all play our part and walk the walk as well, then we are not actually serving the people.

Every time we speak up about disrespectful behaviour, we are one step closer to stopping the cycle of violence against women. This leads me to the second key amendment in the bill. I also welcome this amendment, which relates to the definition of consent in many respects, to expressly address conduct that is known as stealthing.

As the Leader outlined, stealthing is a form of rape, as the victim has not given free agreement or consent to sexual intercourse without a condom. Clearly, full enthusiastic consent to all aspects of any sexual act should be given on every occasion and throughout the sexual act. Not just at the beginning, it has to be continual. If there is not a clear, enthusiastic 'yes' then that is effectively a 'no'. Only 'yes' means 'yes' and yes to one form of sexual activity is not yes to another. Yes to having sexual intercourse does not mean yes to sex without a condom. Consent needs to be sought and given for each aspect of the sexual act and if anyone is unclear about what this actually looks like, then I recommend to you a fantastic little British video called, 'Consent and a cup of tea'. Just Google it. It is one of the most simple, straightforward, completely user-friendly descriptions of consent. Unconscious people do not drink tea. Unconscious people do not want sex. People who might have said they wanted sex on Saturday, do not mean they want it next Saturday as well. It is a really brilliant little video and I commend it to everyone and to share with your kids, share with your families. It is so easy to understand. It has been around for probably 20 years or more, but it is an excellent little video.

To return to the matter of stealthing, this includes circumstances where a person deliberately removes or damages a condom during sexual intercourse without the knowledge and consent of the other party. I do note, as outlined by the Leader, that the criminal behaviour involved in these actions can be prosecuted under existing laws. I think it was the member for McIntyre who said it actually has not occurred. It is one of those things that mostly there are only two people involved in and it is one person against the other. There are rarely witnesses.

I agree with the Government, there is significant value in having a specific target offence that can make education about these offences much clearer and better understood. It is about sending messages to the public, as well as ensuring that people's actions are held to account. Improved understanding and awareness can lead to positive flow-on effects regarding reporting and prosecuting offences, and thus referral to appropriate services to provide further support to victims and survivors, including sexual health care.

Where a condom has been removed or damaged during sex, the risk of a sexually transmitted infection goes up, as does the risk of an unplanned and unwanted pregnancy. As soon as a victim can get to appropriate help, they can make the decisions they need regarding their own health and wellbeing.

I note that our Tasmanian legislation includes an expansive and progressive definition of consent, and I commend all those involved over the years keeping that at the forefront as a nation. Others are catching up, and that is good. As the Leader stated, we led the country in introducing strong reforms to define consent by reference to free agreement.

Section 2A incorporates a non-exhaustive list of scenarios in which there could not be free agreement. For example, a person cannot, or does not freely agree if the person does not say or do anything to communicate consent. Again, I refer you to the consent and the cup of tea. It is pretty clear and simple. People do change their mind. They might say yes to a cup of tea, as the video says, and when you make it and bring it in, they have changed their mind. That still means no - even if they said yes a short time before.

Sexual intercourse without consent is rape. Sexual acts without consent are sexual abuse and possibly rape, depending on the nature of them. It is all about consent. I agree the inclusion of a specific provision for stealthing will provide even further clarity on free agreement to sexual intercourse and will build on the existing strengths around our consent laws.

These amendments send clear and unambiguous signals to Tasmanians, that actions such as stealthing are abhorrent and will not be tolerated. They ignore consent and they are entirely disrespectful. I go back to the point that it comes back to respect, as well as consent. Some practices can form part of an abusive and controlling relationship, as I have said, and one way of controlling a woman is to get her pregnant, and then have to deal with the consequences of that. Those relationships are also never okay, but they are very hard to recognise for some people, they are very hard for family and friends to recognise at times, and they are very hard to leave.

If anyone wants to read a fiction book which was so close to the truth it was horrifying, it was Jane Caro's latest book *The Mother*. I do not know if anyone else has read it. If you want to know anything about coercive control you should read it. It is fiction but I will tell you what, it is pretty real.

I agree with the Government that express recognition of the abhorrent nature of stealthing may assist with education, discourage would-be offenders, and support the making of complaints and prosecutions for sexual offences in appropriate circumstances. As with the inclusion of the standalone offence of strangulation, the new subsection relating to stealthing expressly states that it does not limit the application of existing law of free agreement in section 2A(2) to the act of sexual intercourse.

As I stated at the beginning of my contribution, I commend the Government for bringing forward this legislation. It seems to have taken a long time, but I know these things do take time. It does strengthen our already robust legislative framework to protect victims of family violence, sexual assault and rape, and ensures perpetrators are held to account for the crimes they commit in whatever form they perpetrate these abhorrent crimes. I know there may be more questions around actual definitions that were not specifically put into the legislation, seeking to keep it broad, and other members may ask about that. It is important that we understand why it has been framed the way it has, to ensure there is the breadth of scope and that it does not limit the application; that it does not leave loopholes and ways for perpetrators to escape appropriate punishment.

The victims of these abhorrent crimes are predominantly women and girls. Our daughters, our sisters, our mothers, our grandmothers. They are us. Their lives are changed forever, and their penalty lasts a lifetime. Perpetrators need to be held to account, and these amendments will make this easier to achieve, as well as send a strong and clear message to our communities. All forms of violence, especially against women who are the primary victims of these crimes, are unacceptable, and must stop. It is a national shame and a national crisis.

We must do all we can to educate Tasmanians, to ensure we promote and achieve gender equality and promote respect for women. This includes ensuring consent to sexual activity is well understood, and that other factors that reflect gender and equality, such as the gender pay gap, are addressed.

I support the bill and look forward to further measures to strengthen these important areas.

[4.55 p.m.]

Ms WEBB (Nelson) - Mr President, I am very pleased to rise to speak on this bill. It is excellent that it has come to us and I thank the Government for bringing it forward and getting it to this point. I know many people have been advocating for it. It is the result of a lot of hard work and commitment by many people to have us now considering and, I hope, passing it today.

Thank you to other members who have been making thoughtful, detailed contributions on the bill and for discussing the issue in the broader context. I will speak directly to the elements in the bill and keep it brief, members may be pleased to hear.

We are looking at a bill to bring forward a new standalone, criminal offence of non-fatal strangulation, which is often in the context of family violence and is a red flag for a likely or possible murder. Hence there is a very strong rationale for us to be considering this as a new offence. I will speak about that a little later.

The Government responded to community calls for this and made a commitment to it, and now we have it come to light. The coroner's report that fed into this clearly identified the risk factor for homicide that is there in non-fatal strangulation, and called for a greater awareness of this issue and a targeted response for medical, policing, counselling, and all law reform sectors. Legislative reform is an essential basis for that. Once we put legislative reform in place in this way, then we can also build on that with a better understanding and a better way to respond through the medical, policing, counselling, and judicial processes as well. This is a good starting point.

There are other ways that this behaviour can be addressed through existing criminal offences. However, we know those existing criminal offences have their limitations and there are situations that we will now be able to capture and address through this.

When I was reviewing and examining this legislation, I thought about the fundamental question about the need to be cautious in creating a new criminal offence. We would never want to do that in a reactive way or in response to a populist call. We have to be mindful of the weight that we bring to the creation of a new criminal offence. It is important for us to scrupulously ask ourselves, is this warranted? Expanding the scope of criminal offences, because we know that carries the likelihood that people will be punished under them, is something we should be really thoughtful about.

I believe in this case that has been dealt with really well. We have been provided with a good, evidence-based rationale. We have also had the benefit of other jurisdictions going down this path before us and we have been able to look to them. Other jurisdictions have dealt with this in a variety of ways. We can look to things we think have looked good in other jurisdictions, and other things we think might be done differently here to be more appropriate.

One of the key reasons for us to be thinking about or giving effect to a new criminal offence here for this behaviour of non-fatal strangulation is to fully recognise, acknowledge and publicly state the seriousness of that offence. The seriousness of that behaviour. To make sure we are able to respond appropriately by being able to charge and prosecute people for that particular time. I did note in the second reading speech the Government said that it was:

... mindful of the significant value that specific, targeted offences can have in terms of increasing community education and awareness of criminal behavior.

This, in turn, leads to positive flow-on effects regarding reporting and prosecuting offences, and providing further support to victims and survivors.

That it really important because it shows once we have put in that specific targeted offence, built communication and education around it in the community, we then allow for victims to come forward more readily and be more confident they will be treated and responded to appropriately and have a higher likelihood of success that the offence against them will be successfully prosecuted through the criminal justice system.

That sequence of events that was laid out in the Government's second reading speech, in terms of the benefit of a specific, targeted offence - if the Government wanted to elaborate in their summing up on where they can point to having seen that occur in other jurisdictions so that we could be given extra confidence that is what we could expect to see here, that could be useful.

Mrs Hiscutt - A little more clarity of what you are looking for?

Ms WEBB - The bit I quoted from the Government's second reading speech, which talked about the fact a specific targeted offence can then increase community education and awareness, which can then increase reporting and charging of the offence and an outcome for a victim. If we have evidence to show that has occurred in other jurisdictions, that would be a useful thing to put on the record to point to.

This point is well made as I looked through submissions on the draft bill. I did note the Community Legal Centres make a similar point that it is important to be increasing understanding, identification and, therefore, then reporting of this behaviour. The bit that stood out to me on page 4 of the Community Legal Centres' submission:

Over time, a standalone offence of non-fatal strangulation is likely to increase the number of survivors reporting the conduct and result in a more responsive approach from the police and prosecution. A new standalone offence will also ensure that there is a more accurate record of non-fatal strangulation in the community, will assist the community education and also send a strong statement about the seriousness of non-fatal strangulation

They are reinforcing that same point, which is a really well-made point, when we are contemplating this new offence.

I note the work of the Sentencing Advisory Council that sits behind and fed into the thinking of the development of this legislation, although it was not the Sentencing Advisory

Council's role to provide advice on the merits of the standalone offences in here, but rather provide policy advice on sentencing matters relevant to it. That was clearly a useful background piece of work that fed into and informed these amendments and it is a very useful way for the Sentencing Advisory Council to be helping us positively with law reform in this state. I am not going to go into detail about the matters covered in the Sentencing Advisory Council's report, others have covered that quite well.

Unlike some other jurisdictions, we are not restricting this non-fatal strangulation offence to just situations of family violence and I am really pleased about that. That is a really positive thing that we allow for that to be outside of situations of family violence as well, because we know there are times where that would be the case.

Some issues were raised in some submissions to the draft bill on a number of areas, and some of those included people suggesting there would need to be, or would benefit from being a definition of non-fatal strangulation in the legislation. There were some concerns expressed around the evidentiary burden that might be there in terms of the offence of non-fatal strangulation. People really emphasised in these submissions the need for education and training that would come after this legislation came into effect. Training for healthcare workers and police for example, in regards to identifying, responding to and documenting non-fatal strangulation offences.

The thing I will pick up on is around that call for a definition. It is a really good one that we can add some clarity to during this debate and I will refer to two of the submissions and then put something to the Government on those.

In the Tasmanian Aboriginal Legal Service submission on the draft bill, the point that they made was and I quote this - it is not a numbered page but I think it is page 2 of their submission:

It is our view that not providing statutory definitions of those terms would render the offences more difficult to discern for prosecution, defence, and the courts, and matters already litigated in other jurisdictions would likely arise.

That was flagged in that submission.

Then the Women's Health Tasmania submission had a similar take. They made the point the inclusion of a definition means certainty and they said on page 7 of their submission:

We are concerned that this could be at cross-purposes with the stated objective of the law

And in that, they were meaning a lack of definition. They said:

It could lead the judiciary to provide for a narrower definition of the law out of a concern that the law would criminalise behaviours in the general community which, while unlawful, may not warrant this degree of sentencing and criminalisation.

I mention those two as examples of a call for a definition. When I asked about this in the briefing - and thank you very much for the briefing provided today - I felt very good responses

and arguments were provided in answer to those questions. However, I invite the Government to perhaps provide those again in the summing up so we have it on the record.

I will not go into the answers provided, but I imagine we will hear the same things we heard this morning, which I thought were compelling. If the Government could provide that, it would be helpful.

One of the other things pointed out, and I had not considered this before, is that having a standalone offence for non-fatal strangulation would also then potentially mean that someone convicted of that crime would then have that on their criminal record. There may be circumstances under which that is actually quite useful to have that as a red flag on someone's criminal record. Now that will be a much clearer thing to appear on the criminal record. I had not considered that matter earlier than when I heard it today.

To the second part of the bill, which is in relation to stealthing and I will make very brief comments. I am incredibly pleased to see this being very clearly clarified in our legislation. Of course, this is centred around the issue of consent and other members have talked about that in great detail and I will not go over that same ground. However, naturally, if there has been an understanding that a condom will be used and it is not used, or it is tampered with, or it is made ineffective, then that no longer constitutes consent. It is helpful for us to be making that incredibly clear in our legislation which already has an excellent definition of consent. We have gone down that path already. We were quite nation-leading I believe, in our definition of consent, being in reference to free agreement. Free agreement has to include matters relating to contraception, such as a condom use.

I am very pleased to see this. I did not have any specific questions on this I needed to put to the Government in this contribution to assist me in supporting it. I will be interested as we go through to hear if other members have heard the questions there to bring forward any issues they have identified. Again, in that sense, the question sitting behind it was, do we need to do this? Can we get by with what is there? The best value of being very specific about this in our legislation means it can then become the basis for greater education and community awareness and we can take that forward, even more actively than we are now - certainly, much more broadly than we are now - and build on community awareness around this. I noticed that in submissions on the bill people were very keen to emphasise and to ask questions of the Government in their submissions. Will community awareness on consent be extended and further supported after the implementation of this new legislation? That is a good question and it would be good to have a Government response to that in the summing up.

Also, questions on, will additional training be provided to police, legal professionals, healthcare workers and first responders in relation to these new provisions we are bringing in here around stealthing? In their submissions and organisations, people emphasise that the legislative basis is important and very welcome but without a community awareness campaign ramping up and training the people who will be responding to these situations, the law will not be as effective as we may wish it to be. That concludes my contribution, a few things I would really like to hear more about from the Government that would be useful to have as part of the debate.

Mr President, I reiterate, it is incredibly pleasing to have this bill here and I fully support it.

[5.11 p.m.]

Mr VALENTINE (Hobart) - Mr President, I found it quite interesting to listen to the offerings of other members. They have certainly covered the ground and there is not a lot left to say but to go to a point from the Sentencing Advisory Council's report on this on page 79, it says right at the bottom of that page:

It is the Council's view that any sentencing reform should apply in both the Supreme Court and Magistrates Court.

I want some clarification as to whether that - this change to the Criminal Code or addition into the Criminal Code - will apply in both of those jurisdictions. If I could have that answered it would be good.

I, too, like the member for Launceston, wondered why the term -

Ms Armitage - Unlawful.

Mr VALENTINE - Yes, unlawful strangulation is not used. I see in the second reading speech that it says:

Those acts are not defined in the legislation, so that the words will have their ordinary meanings that change and evolve over time ...

Further down, including them:

... the inclusion of legislative defined terms would inappropriately narrow the offence.

It is an interesting explanation there. I wonder whether not having it in there might actually cause a little narrowing or a different interpretation of the offence, the crime. The charge is strangulation; why could it not be unlawful strangulation? Which clearly defines it from what the member for Murchison was going to there with regard to people who choose to have a heightened sexual desire through that practice. To me it might still be a little unclear: strangulation that in fact causes death as opposed to strangulation that is near-fatal. Maybe there is some differentiation required there. I want more of an explanation as to why the term 'unlawful' and why 'non-fatal' is not used. I would really be interested to hear anything further that the Leader might have in terms of explanation.

Apart from that a lot of people have been waiting a long time for this. Quite clearly it is an area of major concern. It is stated it is not just in family violence circumstances, but there are a lot of family violence circumstances where this has occurred. No woman, no one for that matter, should ever have to live with the fear of these sorts of things and the stress after such an event without having some recourse through the law.

Mr President, I support the bill.

[5.15 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, there is a little bit more information to come with regard to the member for Hobart. Part of what you were asking is answered in my first answer which was addressed to

the member for Murchison, as asked during the briefings; however, there will be a little bit more clarity on your specific question.

To start with, the member for Murchison's query about when a person can consent to strangulation. The bill does not affect the law as to when a person can consent to conduct that would otherwise be unlawful. The inclusion of reference to 'unlawful' is therefore necessary. Where an individual may consent to strangulation-type behaviours within specific circumstances including, but not limited to, sexual activity or mixed martial arts, the law also requires consent to be freely given. In Tasmania, as it relates to the entire Criminal Code as defined in section 2A it means 'free agreement'.

The examples in the provision are not exclusive. One example within this section 2A(2)(e) which vitiates consent where the victim agrees or submits because he or she is overborne by the nature or position of another person. This is applicable to coercive control type family violence behaviours.

In addition, section 53 of the Criminal Code limits the extent to which a person can consent to injuries to themselves. No one can consent to death and injury likely to cause death except for surgical operations or a maim for any purpose injurious to the public. Any consent thought to be given in those circumstances has no effect in protecting the person performing the act from criminal responsibility. There will be a bit more to come on that, member for Hobart.

The member for Nelson was talking about what evidence is there that new targeted offences for strangulation have resulted in increased reporting charges and awareness. Many jurisdictions such as Queensland, New South Wales, South Australia, Western Australia, the ACT and the Northern Territory have introduced an offence of non-fatal strangulation. In addition, a standalone offence exists in New Zealand.

In 2016, Queensland introduced the offence of choking, suffocation or strangulation in a domestic setting in the Criminal Code. Queensland Sentencing Advisory Council analysed Queensland non-fatal strangulation offences finalised between to 2016-17 and 2017-18. Non-fatal strangulation offences were the most serious offence charged in 71 per cent of cases, 287 of 404 cases. Of those, 99 per cent pleaded guilty and this was prior to the Court of Appeal's 2020 judgment which provided clarity on choking.

In New South Wales in 2018, the new offence of intentionally choke, suffocate or strangle another person without the other person's consent was created in the Crimes Act. Statistical information from the Judicial Commission of New South Wales provides that in the period June 2014 to December 2019, there were 406 offenders sentenced in the local and district courts for a total of 438 offences contrary to the strangulation offence in the Crimes Act 1900, section 37(1). In addition, although the offences in New South Wales were not limited to the context of family violence and therefore apply generally to all conduct involved in strangulation, nearly all of the offenders who were sentenced for strangulation offences were sentenced for domestic violence-related offences.

In South Australia, the offence of choking, suffocation or strangulation in a domestic setting - section 20A - was included in their Criminal Law Consolidation Act 1935 in 2019. Prior to the creation of a specific strangulation offence, there was no strangulation offence in South Australia, and the relevant offence relied on the offence of assault.

Statistical information from South Australia indicates that in the period 31 January 2019 to 30 November 2020 there were 513 defendants finalised with one or more charges under the offence of choking, strangulation or suffocation in a domestic setting. Of the 513 finalised defendants with at least one strangulation offence, 425 of the defendants had the strangulation offence as the most serious offence.

Still with the member for Nelson, I believe this was a question that was asked during the briefing. Why does the proposed new crime of strangulation at clause 170B not define the terms 'chokes, suffocates or strangles', and what approaches have other jurisdictions taken in relation to these terms in their offences? These terms were not defined in the bill on the advice of the Director of Public Prosecutions, so that the words will have their ordinary meaning that change and evolve over time, which is in line with community expectations. The bill has been drafted to capture an appropriate range of conduct without imposing arbitrary requirements such as conduct causing a person to stop breathing altogether, which is considered too narrow.

Some stakeholders called for statutory definitions on the basis that this would provide certainty, including No to Violence, the Tasmanian Aboriginal Legal Service and Women's Health Tasmania. You quoted two of them. Tasmania has an existing offence which uses the terms choke, suffocate, or strangle, which are not defined in the Criminal Code or used anywhere else in it. This is at section 168: Disabling to aid commission of offence or flight of offender.

It is not considered appropriate for prosecuting the types of strangulation offending usually occurring in the community. As members would be aware, Australian criminal law is not uniform, and the definitions used for offences will often differ between jurisdictions. Relevant reforms in all Australian jurisdictions and New Zealand have been examined closely by the Department of Justice in preparing the bill. All other jurisdictions, except Victoria, currently have active, specific non-fatal strangulation offence provisions. The Victorian Government has stated it also intends to. Definitions are not provided for in legislation of other jurisdictions.

Tasmania will join Queensland, New South Wales and South Australia, which do not have statutory definitions. A Queensland Court of Appeal judgment has settled on a definition of choking which has been applied by the South Australian District Court. The definition is that the breath must be hindered, but need not be stopped, and hands around the neck alone are not enough. However, it is enough if the restriction of breathing is of short duration or without any lasting injury. A New South Wales Court of Criminal Appeal judgment from April 2022 distinguished the Queensland court's definition, which the New South Wales District Court had applied in 2021. The New South Wales definition now is that intentional choking means to intentionally apply pressure to the neck so as to be capable of affecting the breath or the flow of blood to or from the head. This appears to be easier for the prosecution to show with the Queensland definition where actual hindrances must be proven. The New South Wales definition applies to the least serious of its three different strangulation offences. It was influenced in part by the fact that the third offence was added after the other two were enacted and by what was said in the New South Wales Parliament when the third offence was passed.

Jurisdictions that do not have statutory definitions are the ACT, Northern Territory, Western Australia and New Zealand. The ACT and Northern Territory definitions are very similar to each other and extremely wide, yet non-exhaustive. For example, the ACT Crimes Act provides that choke, strangle and suffocate includes application of pressure to a person's

neck to any extent or obstruction, interference or impedance to specified bodily systems to any extent.

Western Australia and New Zealand share very similar provisions which effectively incorporate definitions into the element of the offence and, therefore, do not use the words choke, strangle or suffocate in their provisions, as opposed to heeding which are not, at law, part of the provision.

The member for Nelson talked about public awareness. To support this important reform, we will roll out a community education and awareness campaign to ensure that a clear and strong statement is sent as to the seriousness of these crimes. More detail will be provided around the campaign as the new offences and amendments are implemented.

The member for Nelson also asked about training. I am advised that police officers receive training in the following two university modules that are taught at the University of Tasmania and Tasmania Police offices: Victimology and Offences Against a Person, and Family Violence Policing. Police officers also undergo family violence training as part of their sergeant's qualifying process and all promotional courses.

In 2017, Tasmania Police engaged with the University of Tasmania and the Centre for Investigative Interviewing with a view to informing investigative interviewing training within the state. The Centre for Investigative Interviewing is attached to Griffith University and is led by world-renowned child interviewing expert, Professor Martine Powell. The collaboration has led to Tasmania Police introducing interviewing techniques at recruit level and within investigative training, including a specialist interviewing course.

Police officers also have a training day every five weeks, where they are taught about new legislative amendments and procedures for their implementation. This legislation will be included as part of that process. Senior Investigators also have a forum where they meet every three months to discuss changes to legislation and investigative procedures. This informs how police are taught to apply legislation, which will include these amendments. As well as these formal methods of training, police officers are continually undergoing on-the-job coaching in relation to family violence responses. Every family violence incident is reviewed by the supervisor and feedback provided as required, meaning there is a constant training loop in this area. In fact, family violence is the only crime type that requires supervision validation, demonstrating the importance that Tasmania Police places on the response to family violence. It is obviously ongoing training within the police department.

For the member for Hobart, matters charged under the Criminal Code, such as the new proposed 170B, will be dealt with in the Supreme Court. This new crime is a serious offence and will be heard on indictment.

Last answer for the member for Hobart, why the charge is strangulation and not unlawful strangulation or non-fatal strangulation? The answer is the elements of the offence require that someone intentionally and unlawfully chokes, suffocates or strangles another person. If a person were to die from strangulation, then another charge would be pursued as strangulation in relation to this new crime is always non-fatal.

I hope that we have ticked off everything there. It is a much sought-after bill and I am glad to be able to deliver it to the House today.

Bill read the second time.

CRIMINAL CODE AMENDMENT BILL 2022 (No.4)

In Committee

Clauses 1 and 2 agreed to.

Clause 3 agreed to.

Clause 4 agreed to.

Clause 5 agreed to.

Title agreed to.

Bill reported without amendment.

Third reading made an order of the day for tomorrow.

ADJOURNMENT

[5.34 p.m.]

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

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

Mr President, I remind members of our briefing tomorrow morning at 9 a.m. in Committee Room 2, on the Local Government Amendment (Elections) Bill 2022. I was going to have that next week but we brought it forward and slotted it in at 9 a.m. tomorrow, followed at 10 a.m. by the briefing on the Youth Justice Amendment (Searches in Custody) Bill 2022.

Mr President, I move -

That the Council do now adjourn.

The Council adjourned at 5.33 p.m.