Wednesday 31 October 2018

The President, **Mr Wilkinson,** took the Chair at 12 noon and read Prayers.

RESIDENTIAL TENANCY AMENDMENT BILL 2018 (No. 32)

Consideration of Amendments made in the Committee of the Whole Council

[12.03 p.m.]

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

> That the bill as amended in Committee of the Whole Council be now taken into consideration.

Amendments agreed to.

Bill read the third time.

SUSPENSION OF SITTING

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

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

This is to continue the briefing on the Family Violence Reforms Bill 2018.

Motion agreed to.

Sitting suspended from 12.06 p.m. to 2.30 p.m.

QUESTIONS

Housing - Rezoning Orders

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.32 p.m.]

Before parliament adjourned for the winter break, the Government requested that the Legislative Council suspend Standing Orders so members could consider the third reading of the Housing Land Supply Bill 2018. The explanation given was that rezoning orders could then be expedited. To date, no orders have been tabled in parliament. Given the urgency of Tasmania's housing situation, when will the Government present its first housing orders to the parliament?

ANSWER

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

The Housing Land Supply Act 2018 provides a more direct and efficient process for rezoning suitable government-owned land for residential development and for a streamlined approval process to facilitate the provision of affordable housing. The act achieves this by streamlining the rezoning process without compromising the integrity of assessment processes, and ensuring any planning implications and the views of affected parties are properly considered during the assessment.

The Minister for Planning is currently considering the suitability of three housing land supply orders, all of which are currently undergoing consultation as required by the act. I am advised that if the proposed planning scheme amendments were proceeding through the normal process under the Land Use Planning and Approvals Act 1993, they would first require certification by the local council, which is not guaranteed to be granted, then a lengthy process of assessment and review taking up to six months would follow. Subject to consideration of representations received, the Government expects that the three orders will be tabled in the November sitting of parliament with further orders being prepared to be tabled in 2019.

Roadworks - Murchison Highway Upgrades

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

[2.34 p.m.]

With regard to the recent upgrades to the Murchison Highway and ongoing roadworks on this highway -

(1) Is the Government aware of the poor state of the roads that have been upgraded and are now very dangerous, with many large and deep potholes along large sections of the highway?

(2) Have any vehicle crashes or incidents occurred in the last two years on these sections of the highway, and -

(a) If so, how many?

(b) Were injuries sustained by drivers or passengers of the vehicles involved?

(3) If the Government is aware of the poor state of the highway -

(a) What is the reason for such a rapid deterioration of the road surface?

(b) What actions are being taken to address the road conditions?

(c) Who is responsible for the repairs and maintenance of the Murchison Highway?

(d) What is the time frame for the repair?

(4) What action is the Government taking to ensure current and future roadworks on the Murchison Highway result in a higher quality road surface that can withstand the expected high rainfalls and significant volume of heavy traffic that uses this highway daily?

[2.35 p.m.]
ANSWER

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

(1) The Department of State Growth has advised that sections of the recent upgrades on the Murchison Highway have experienced some deterioration of the sealed road surface since completion of the work in March this year.

The department has made arrangements with contractors to temporarily repair the potholes as soon as possible. The speed limit has been temporarily reduced to 60 kilometres per hour in some sections, until the permanent seal is completed.

The temporary repair works and reduced speed limit will continue until weather conditions improve and a permanent seal can be applied.

(2) Crash data for the last two years has been reviewed for the recently upgraded sections of the Murchison Highway. The data showed three crashes, two requiring first aid and one minor injury requiring a visit to hospital.

Police reports indicate the crashes were caused by avoiding animals, falling asleep and speeding in bad weather. Poor surface conditions were not noted as a contributing factor to the crashes.

Two crashes occurred in September 2016, prior to roadworks commencing, and one crash occurred in August 2018, after roadworks had been completed.

(3) The cause of the rapid surface deterioration is not yet clear and is being actively investigated by the department and the construction contractor. Initial indications are the deterioration could be due either to material quality or to contractor workmanship. The contractor is responsible for the repairs and maintenance, placing of the permanent seal and all costs associated with rectification of defective works.

Once the cause of the failures are known, responsibility for the costs will be determined in consideration of all factors contributing to the failure, including and in addition to defective work.

As the weather improves over the coming weeks, the contractor will undertake more significant repairs to the damaged pavement and will then apply a permanent seal. Until the permanent repairs are completed, the contractor will continue to sweep excess gravel from the road and fill the potholes. Warning signage and visual message boards will remain in operation until the works are complete.

(4) The department will review its construction specifications and quality assurance processes to identify and manage any deficiencies that may have contributed to the recent surface deterioration.

The department will undertake regular auditing of the contractor's workmanship and quality control procedures to ensure the works are completed in accordance with those specifications.

Further investigation of the causes of the recent issues will help to refine this approach so the final road surface is of a sufficient quality to withstand the expected weather conditions and traffic volumes.

Australian Disability Enterprises - Contracts

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT.

[2.38 p.m.]

My question is to the Leader.

(1) Can the Government please provide the total number of Australian Disability Enterprises contracted and total dollar figure for procurement from ADEs for the year 2014?

(2) Can the Government please provide the total number of ADEs contracted and the total dollar figure for procurement from ADEs for the year 2015?

(3) Can the Government please provide the total number of ADEs contracted and the total dollar figure for procurement from ADEs for the year 2016?

(4) Can the Government please provide the total number of ADEs contracted and the total dollar figure for procurement from ADEs for the year 2017?

(5) Can the Government please provide the total number of ADEs contracted and total dollar figure for procurement from ADEs for the year 2018?

(6) Can the Government please outline any new contracts awarded to ADEs in 2018?

(7) Can the Government please outline if any contracts have not been renewed to ADEs in 2018?

ANSWER

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

(1) to (7)

Agencies are required to report details of all contracts awarded with a total value of $50 000 or over, excluding GST, on the Tasmanian Government Tenders website, in accordance with Treasurer's Instructions 1110 - Procurement Website Reporting Requirements: goods and services.

Agencies are not required to specifically identify contracts awarded to ADEs on the tenders website. Agencies are also not required to report on contracts valued at less than $50 000. As a result, it is not possible to accurately report on the number and value of contracts awarded to ADEs on an annual basis since 2014 or to provide details of all new contracts awarded to ADEs

or existing contracts with ADEs that have not been renewed, either through an option to extend or a re-tendering process, in 2018.

Biosecurity - Bee Imports

Mr DEAN question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.41 p.m.]

My question relates to the mite *Varroa destructor* - VD - which has a potential to change the shape of beekeeping in Tasmania at great cost to the industry. There is concern that Biosecurity Tasmania - BT - is not doing enough to protect the industry from the disease.

I hope BT does not shoot the messenger in this case because this question is coming from beekeepers. Will the honourable Leader please advise -

(1) What emphasis is BT applying to keep Tasmania free of the mite VD?

(2) At this time of the year, hundreds of queen bees with seven or more escort bees have been brought into the state from different parts of the mainland. Are all these bees being appropriately inspected for the VD mite before release to beekeepers?

(3) I am advised that while all bees coming into the state are supposed to go through a central point for inspection, that is not happening and direct supply to beekeepers is a common practice. Is BT aware of this practice?

(4) If so, what is BT doing to prevent this from happening?

(5) Having regard to this minuscule mite, how is the inspection undertaken?

(6) Queen bees are bred successfully in Tasmania and always have been; therefore, why are they being brought from the mainland with the high-risk factor involved? I guess the question should be: why are they permitted to be brought into the state?

(7) I understand that the Tasmanian Beekeepers Association - TBA - has asked that an import ban be put in place to protect the industry against the *Varroa* mite. If that is the case, why is the TBA request not being considered?

(8) What is BT's assessment of this risk?

(9) Is it considered a real risk and, if so, what is the extent of that risk to beekeepers?

(10) I am advised that if a ban is not put in place now, as soon as the *Varroa* mite is established on the mainland, it will be introduced into Tasmania. What is BT's position regarding this statement?

ANSWER

Mr President, I thank the member for Windermere for his questions. I will work my way through them, sticking to the acronyms.

(1) BT coordinates the Tasmanian component of the National Bee Pest Surveillance Program, which includes six-weekly health checks on 24 sentinel hives around Tasmanian ports. The program includes surveillance of a range of exotic pests including the *Varroa* mite. In July this year, BT held a workshop facilitated by Plant Health Australia designed to test and improve our response to a detection of the *Varroa* mite. The workshop included industry participation and involved a simulation activity in the field and in a response centre. The National Bee Biosecurity Code of Practice is promoted by BT in Tasmania and includes annual checks for VD by every beekeeper.

(2) Queen bees and their escorts entering Tasmania are required to be held and inspected at Australia Post locations en route to the importer. The inspections are designed to detect the small hive beetle, which is established on mainland Australia. The inspection process will also pick up any incidence of VD. VD is not currently specifically regulated for bees coming from other parts of Australia because it is not established in Australia. Industry has been advised of the requirement for inspection on entry to the state and all freight handlers have been instructed to hold consignments containing bees until they are inspected by BT.

(3) BT is unaware of any bees bypassing the BT inspection process. Each year the inspection process is reviewed to ensure it is current with freight and postal handling practices.

Parcels containing bees are required to be labelled with the wording 'Contains Live Bees' to enable interception for inspections.

All inspected parcels should carry 'Passed Quarantine' tape and beekeepers are instructed to contact BT if parcels arrive without the tape applied.

The inspection process has been in place for over four years with no detections of concern.

(4) BT routinely educates beekeepers on entry requirements for bees and bee products, including the conditions for importing queen bees.

(5) Small hive beetle inspection of bees, which should also detect VD, comprises officers inspecting bee consignments in sealed bee-proof inspection facilities. Parcel packaging is inspected thoroughly for presence of any pests and the queen bee cages are passed under a Magi Lamp for physical inspection of each bee and each cage. Health certification is checked to ensure each consignment meets entry requirements.

(6) Some TBA members still desire access to imported bee stock due to their inability to breed sufficient numbers for their annual production needs.

(7) Importation conditions are based on risk assessment and can only be applied in relation to pests already known to be present in other states. It is possible for industry to introduce voluntary measures to cease import of bees; however, to progress these measures there must be adequate queen production within Tasmania to supply the industry needs, including a supply for hobby beekeepers.

As I understand it, the TBA has not yet reached unanimous agreement on this matter.

The general authority that allows bees to be imported will be reviewed if there is any significant change in the disease or pest status of bees either in Tasmania or other states.

(8) The introduction of bees into Tasmania does present a risk for the introduction of bee pests and diseases. The current import requirements are the least restrictive measures necessary to reduce the risks to an acceptable level.

The risk is currently addressed by three checks of the bees for external pests as they move through the import chain. Bees are inspected when packed by the exporter, on arrival in Tasmania by BT and upon receipt by the importing beekeeper.

(9) Yes, if VD were to establish in Tasmania, it would have a devastating effect on the industry and also on those industries reliant on bees as pollinators.

The honey industry is valued at $90 million in Australia and the pollination value is considered to be worth $1.7 billion to Australia.

VD would likely mean a loss of access to pollination services and increased costs, therefore impacting multiple industries.

(10) If it were established on the mainland, the import requirements would be immediately reviewed.

Total Support Services

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.48 p.m.]

In May, the Minister for Human Services confirmed the then Department of Health and Human Services was investigating for-profit service provider Total Support Services over its handling of children in its care.

(1) Has the investigation concluded?

(2) If so, what were the findings?

(3) In the interests of transparency, will the Government release a redacted report to protect the identities of the young people, but still provide information regarding the quality of care?

ANSWER

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

The Government takes these types of allegations seriously and, as such, a review is being undertaken by a senior quality and practice advisor in the Department of Communities to establish the accuracy of the claims.

The review remains ongoing and therefore it is not possible to undertake an assessment of the findings or of the appropriateness of release at this point.

Foster Care Allowance

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.49 p.m.]

During the election, the Liberal Government promised a $1.3 million spend over three years to provide incentive payments of $2500 to both the foster carer and young person upon successful completion of their Tasmanian Certificate of Education - TCE - in year 12. During budget Estimates, the Minister for Human Services provided an answer stating there are currently 15 young people on guardianship orders in year 12.

(1) How many of the 15 students are on track to achieve a TCE?

(2) If all 15 of the students achieve a TCE, a total of $75 000 will be provided to both foster carers and young people. Is the Government expecting a huge increase in student numbers for the remaining two years?

(3) If a care placement changes several times before a TCE is attained, which foster carer will receive the payment?

(4) It appears this policy was not thought through or costed properly. Will the Government commit to redistributing the remaining funds to the children's portfolio?

ANSWER

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

(1) to (4)

> The policy is about encouraging and supporting continued engagement in education and learning to year 12 or equivalent. Evidence shows that completion of education for young people is vital for increasing their chances of positive life outcomes. There can be additional barriers and challenges that impact on school retention and attainment levels for children and young people in out-of-home care. To address these, focused and sustained effort is required. It is well established that young people who are not able to complete secondary education are at increased risk of unemployment, poverty, homelessness, isolation and health issues. Learning means children and young people are attending and engaging in education, training or employment, and are supported to learn by their caregivers and education providers.
>
> We have been consulting with key stakeholders to make sure the funds available under this election commitment are used to encourage the maximum number of young people to continue to engage in a range of education and learning opportunities. It is our expectation that a number of young people currently engaged in year 12 or equivalent learning opportunities are on track to receive a payment under this policy. The program is currently being finalised and we will be in a position to provide further details in the near future.

Tasmanian Irrigation - Statement of Corporate Intent

Mr DEAN question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.52 p.m.]

I put these questions together because I thought our irrigation matter would have been disposed of on Tuesday, but it was not and I still need to ask these questions. They might help us with that matter. The questions relate to the statement of corporate intent relative to Tasmanian Irrigation. Will the Leader please advise -

(1) When was the statement of corporate intent revised to remove the words, 'and where feasible and appropriate, to facilitate local community management of these schemes'?

(2) Was the alteration known about on 7 December 2016?

(3) Who instigated the change? That is, the removal of the aforementioned words from Tasmanian Irrigation's current statement dated 2016-17.

(4) Why were those words removed?

(5) Were the customers/farmers involved in the decision to change the statement of corporate intent?

(6) Were the customers/farmers advised of the change?

ANSWER

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

Government businesses are required to prepare a statement of corporate intent on an annual basis as part of the corporate planning process. The statement of corporate intent represents the agreement between the board of a government business and its shareholding minister regarding the expected performance of the business over the planning period. Both the 2016-17 and the 2017-18 statements of corporate intent prepared by Tasmanian Irrigation reflect the Government's longstanding policy to support local self-management of irrigation schemes where appropriate and feasible. In 2016-17 this was reflected in the strategic direction section of the statement of corporate intent -

- prudently and responsibly manage existing irrigation, river improvement and drainage schemes, and seek to transfer the operation and management of schemes to local communities where feasible and appropriate

In 2017-18 this was reflected in the business overview section of the statement of corporate intent, which said it would -

- develop, own and operate irrigation schemes in Tasmania, and, where feasible and appropriate, to facilitate local community management of these schemes.

Importantly, the statements of corporate intent agreed between Tasmania Irrigation and the shareholding ministers in 2016-17 and 2017-18 are consistent with the Irrigation Company Act 2011.

Mr DEAN - I give notice there will be a number of supplementary questions about this matter because a number of my questions were not answered. From time to time, if the going gets tough, the Government tries to find a way around it. One of those supplementary questions will be, 'Who instigated and wanted the change?', because the TFGA is unhappy about it, and it has been raised with me and other members.

Private Rental Incentives Scheme

Mr WILLIE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.56 p.m.]

On 10 April this year the Government announced the landlord incentives scheme. Under the scheme, if property owners make their property available, they will receive a financial payment of $10 000 to $13 000 per property per year and will be guaranteed rent is paid for the term of the lease. The scheme aims to provide 110 properties. On 28 June, during budget Estimates, the Housing minister said the Government had received 120 submissions from property owners with 42 properties being approved. At that time, invitations had been sent to 736 suitable applicants on the housing register and 123 had expressed an interest.

In the Legislative Council, the Government advised that as of 24 August 2018, the scheme had housed 25 households from the housing register.

To date, how many tenants have been housed under the scheme?

ANSWER

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

As part of the Tasmania's Affordable Housing Action Plan 2015-19, the Private Rental Incentive Scheme is designed to encourage residential property owners to make their affordable rental homes available for low income earners.

This will provide individuals, couples and families in our community who are finding it tough to secure affordable rental properties, with access to secure rental accommodation (12-month leases) at an affordable rent.

The Government is working with community housing providers, Housing Connect and the private rental sector. The pilot received substantial interest when it was launched from property owners and potential tenants from the housing register.

Once properties are approved, community housing providers enter into a lease with the property owner and match the property to the specific needs of individual households from the housing register.

The pilot continues to be rolled out. I am pleased to advise the member that as of 24 October 2018, the scheme has housed 46 households from the housing register.

WATER AND SEWERAGE LEGISLATION (CORPORATE GOVERNANCE AND PRICING) AMENDMENT BILL 2018 (No. 53)

Second Reading

[2.58 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

That the bill be now read the second time.

This bill meets our commitments to accelerate investment into infrastructure; to freeze and then cap prices; to collaboratively progress major projects of environmental, social and economic importance to the state; and for the Government to become a part-owner in TasWater.

Three weeks ago, at the special general meeting of local government held on 27 September 2018, councils around Tasmania voted overwhelmingly to implement the memorandum of understanding developed earlier this year. Twenty-eight of the 29 councils in Tasmania voted in support.

Following their overwhelming support, the Water and Sewerage Legislation (Corporate Governance and Pricing) Amendment Bill 2018 represents the next stage of the ownership and governance reforms for our water and sewerage industry.

The challenges in Tasmania's water and sewerage industry are well known, and have been the subject of much debate in parliament and in the community in the recent past. The problems caused by ageing infrastructure leading to poor health and environmental outcomes have been consistently raised by the Economic Regulator in annual State of the Industry reports. In November last year, the Auditor-General concluded that despite significant effort and expense, significant infrastructure challenges remain, especially in wastewater treatment.

It was in this context that the Government, TasWater and local government worked together to develop the MOU earlier this year, which was agreed in May 2018. The MOU set out a cooperative model for reform of the water and sewerage industry. A key feature of this model is that the Government will become a part-owner of TasWater.

If the bill is passed, the Government will become a shareholder of TasWater, allowing TasWater to better leverage government support and expertise. The MOU contains a commitment for the state Government to invest $200 million in TasWater over the next 10 years, at which time the state Government will own 10 per cent of the shares in TasWater.

The Government's investment in TasWater will help TasWater to accelerate its infrastructure investment, with a target of $1.8 billion infrastructure investment to be delivered by 2026. It will also help ensure TasWater keeps water and sewerage prices more affordable. As part of the MOU commitments, TasWater has agreed to impose a price freeze for regulated water and sewerage services in the 2019-20 financial year. From 2020-21, TasWater has agreed to maximum price increases of 3.5 per cent each year to 2025.

Under the MOU, the Government also agreed to progress investment in major infrastructure projects of special environmental and economic benefit for Tasmania, including projects to address issues with the combined sewerage system in Launceston, the removal of the wastewater treatment plant at Macquarie Point and addressing sewerage issues in locations such as the Freycinet-Coles Bay area. The Government is currently progressing these very significant projects with TasWater.

As I have already stated, at the special general meeting of councils on 27 September 2018, councils overwhelmingly endorsed TasWater's resolutions to allow the Government to become a shareholder of TasWater, to the lower price increases up to 2025 and other changes to the governance of TasWater as set out in the MOU.

The next step in the pathway to reform is the passage of this bill. This bill amends water and sewerage legislation to give effect to a number of the key commitments in the MOU.

The Water and Sewerage Corporation Act 2012 currently prohibits any body other than a council owning shares in TasWater. This bill amends that act to permit shares to be held by the Crown as well as councils. Consistent with the MOU, the bill also prevents the Crown from receiving dividends from TasWater.

The bill removes the current requirements that TasWater's distributions to councils include income tax equivalents and loan guarantee fees. In future, all payments to councils from TasWater will be in the form of dividends. This proposal was a request by TasWater to simplify its administrative arrangements about distributions to councils. This will not affect the total level of distributions councils will receive.

The bill also includes amendments to the Water and Sewerage Industry Act 2008 to enable TasWater to charge lower price increases than those set in in a price determination by the Tasmanian Economic Regulator. The bill also ensures that the regulator can only set maximum prices, or maximum price increases, and not set actual prices or minimum prices, as the regulator currently can do under the act. These amendments are needed to enable TasWater to meet its pricing commitments under the MOU, including the price freeze in 2019-20.

The bill also removes some provisions in the state's water and sewerage legislation no longer needed. It repeals Part 6 of the Water and Sewerage Industry Act, which establishes interim price orders issued by the Treasurer for water and sewerage corporations and interim water and sewerage licences. These transitional measures are no longer needed as the full regulatory framework under the Tasmanian Economic Regulator has been in place since 2012.

The bill also repeals a provision in section 10 of the Water and Sewerage Corporation Act which requires all councils to have an equal number of shares. TasWater is proposing a different share structure, with the number of shares each council owns equal to that council's voting rights. Councils agreed to this change at the special general meeting.

The bill also removes the section in the Water and Sewerage Corporation Act 2012 that deals with the staged repeal of the earlier act, the Water and Sewerage Corporations Act 2008, which established the three regional water and sewerage corporations. This earlier act has been entirely repealed.

I take this opportunity to thank TasWater, its CEO and chair, councils and the Owners' Representatives for the work they have done to get us to this point.

Mr President, I commend the bill to the House.

[3.05 p.m.]

Ms RATTRAY (McIntyre) - Mr President, not surprisingly, we see the water and sewerage bill before us today as we passed the previous legislation about two months ago to enable this next process should the 29 councils decide that this is the way forward for them.

To take members back to the Water and Sewerage Tasmania Bill 2017, I supported this approach then. I was one of the members who had decided that TasWater needed to make some changes, and also that if the Government were keen to provide some direction or have some input, this would be a way to do it without taking over TasWater. Not surprisingly, I support this approach.

The second reading speech clearly outlines the process of the bill. It talks about the 29 councils, albeit one council decided it was not completely on board with it. That will be something it will work through.

We had an extensive briefing this morning from TasWater and the Government. I made a few notes and will put them on the public record. TasWater fully supports this sensible way forward. This, in its view, is the end to the ownership debate to achieve this position of being under the principal ownership of councils, and it strongly supported the discussions with the Government.

I add that Miles Hampton, the Chair of TasWater, was very complimentary of the Government in the way that it went through the consultation process and worked in a cooperative and collaborative way to achieve what we have today. That is worth putting on the public record. When a government gets something right, we need to make sure it is acknowledged for that.

Mr Farrell - It was certainly a lot better after the first attempt.

Ms Forrest - It is because they talked to each other, for a start.

Ms RATTRAY - That is right. The Government had its view on how it was going to speed up the infrastructure needs around the state. Significant infrastructure upgrades and replacements need to continue. The Government had a view about that and TasWater had a plan. Potentially the injection of having the Crown as a shareholder is going to provide some financial input for the Government and will also assist TasWater to deliver those plans. That is the aim of the game.

Mr Gaffney - This time round; the first time round I remember they had all the boil water alert scares and much scaremongering.

Ms RATTRAY - That has all been addressed. There will always be times when, for unforeseen reasons, there may be a township that has to be notified of an issue with its drinking water, but there is a process for that. The way TasWater addresses that issue from time to time works quite well in the community. You would hope it is only from time to time in this day and age.

We cannot argue with the MOU and I will not be. We are working with government and have common objective to deliver a cooperative approach and, in turn, deliver outcomes to benefit all Tasmanians.

It is very clear in the legislation that there will be no dividends to government, so they will take their shareholder stake but they will not be receiving dividends. They have a requirement to put a cap on the increase of 3.5 per cent, which was agreed. TasWater agreed to the maximum price increases of 3.5 per cent each year to 2025. There was some discussion by the Economic Regulator as to whether that needed to be 4 per cent. This legislation means that TasWater does not contravene that 3.5 per cent. Restraint in price increases is a useful aspect. That is important to the community. The Government pushed that agenda solidly through the previous debate, wanting to make sure the community was able to afford the water, infrastructure and services they were being provided with.

It is interesting there is no government board member. It will be a skills-based board approach, which I know is government policy. I am not surprised, but I would have expected there would be someone as a government representative who would have the skills and expertise to sit on the TasWater board, but the Government has chosen not to go down that path. There will be a government representative on the selection committee. That will be a path for government to have some input through their representative.

I have one question. When I was listening to the second reading speech I was reminded - perhaps I should have asked this through the briefing process - of the repeal provision of section 10 that requires councils to have equal numbers of shares. TasWater is proposing a different share structure, with the number of shares each council owns equal to the council voting rights. Councils agreed to this change at the special general meeting. I can see some nodding in the Chamber. That gives the larger councils more clout. They will have two votes compared to the smaller councils' one, which is how voting rights of councils already work in Local Government Association of Tasmania - LGAT. I understand that, but I have always wondered why. I know they are a larger council, but I wonder about a level playing field. The former -

Mr Gaffney - President.

Ms RATTRAY - President of LGAT, by interjection, could you help me here?

Mr Gaffney - In this case, the larger councils have more skin in the game a lot of the time. They have more assets and value held in the water corporation. Their communities deserve to have a greater say and a greater return on what they put into it. It is more of a balancing act.

Ms RATTRAY - My understanding was those allocations, such as for Hobart City Council compared with Flinders Council, were already in place. This says 'voting rights' and that is what confused me, not the quantum of dividend but the voting right.

Mr Gaffney - What happens now is that in a large council with, say, 50 000 people compared with 10 000 people, would they have the same number of votes? I think it is a balancing act. That was worked out by the councils themselves, so they were comfortable with it.

Mr Valentine - It is the administration component to get the level playing field, council by council.

Ms RATTRAY - I just found it interesting that when they already had the other system in place, why they would give it up. That was what I thought when I read that and then listened to it again. They had equal rights, but now they have given away equal rights.

Mr Valentine - I think voting on administrative matters with regard to the Local Government Association of Tasmania is on a level playing field, but when it comes to matters where there is different skin in the game, as the member for Mersey is saying, that is just according to the weight of that.

Ms RATTRAY - I was absolutely certain I would get the answer I needed to that because we have some local government expertise in the Chamber. I know that this local government expertise is not always appreciated, but it certainly is today. The Leader will either confirm or deny that in her response to the second reading debate.

I wrote down here, when the Government came forward in the briefing, that the MOU sets out the principles, which are then needed to be agreed to by the owners and TasWater, and put into the legislation. It said the bill does four things: removal of the section 10 provision to allow the Crown to be a shareholder of TasWater; the Crown will not receive dividends; it simplifies the distribution arrangements to councils, which is what I have just spoken about, and removes the previous complicated process; and it provides certainty to the Economic Regulator to set prices, working within the framework TasWater has agreed to with the Government to bring us what we have today.

I will take the opportunity, while I am on my feet, to acknowledge the cooperative approach of TasWater, particularly in regard to trade waste. It is still a significant issue around the state. We have a level of compliance in some areas, but there are some, particularly small businesses, that are really struggling with the compliance requirements. TasWater has been working with a small business in Deloraine to come to some agreement about compliance requirements for trade waste disposal. Yesterday, while I was sitting in the Chamber, I received an email from TasWater updating me on where each individual business was in its process of complying with trade waste disposal. That is the sort of information that for me as a local member is really valuable. When I get back into Deloraine in the next couple of weeks, I will be able to advise those businesses that I have that information, that I know where they are in the process and can offer assistance to continue on that pathway to their compliance for a reasonable outcome. It will not always be what everyone would rather have. Most of them would probably say they run a pretty tight ship and do not necessarily believe they even should be doing this, but if there is a reasonably priced, cost-effective solution put forward with the assistance of those TasWater representatives on the ground, I feel sure those businesses in Deloraine and the surrounding community will get on board. It will not always be easy for them and I -

Mrs Hiscutt - That is an excellent story to hear about the follow up from TasWater.

Ms RATTRAY - I received the email yesterday and it named every individual business and what stage they were at. There are a couple whose time for compliance is becoming tight. I have sent back an email asking: do I need to contact them or has TasWater contacted them? They will get back to me. I want to make sure they do not fall outside the compliance time frame because a penalty is attached to that. You can apply for an extension and that is what we may need to do in some cases - a six-month extension. I have not been advised whether anyone's request for extension has been denied. I expect that will still be the case but I will follow it up.

While we do not have everything perfect and we may never have a perfect system in place, I believe this is, at least, a step forward in providing water and sewerage services and provisions to our communities. It is very important we do what we in this parliament can to support the best possible outcome.

I support the legislation and look forward to seeing how things are progressing in 12 months or so. It will take that long to see how it is all working. From TasWater's perspective, I am sure it is getting on with the business of providing those necessary upgrades and services that have not always been up to scratch and up to community expectations. We must remind ourselves that we have some communities that do it pretty tough a lot of the time. We have to make sure we support those communities and the people in those communities along the way and not aim to have services gold-plated. We talked a lot in the previous debate about gold-plated services. We simply want efficient and effective services at a price that people can afford.

Ms Forrest - And compliance.

Ms RATTRAY - Yes, compliance. The trade waste issue is all about compliance.

Ms Forrest - It is all about compliance with sewerage as well.

Ms RATTRAY - That is a key to it but it is an important area. I support the legislation.

[3.22 p.m.]

Mr VALENTINE (Hobart) - Mr President, I thank the Leader for organising the briefing. I thank those who gave it, especially those who came from TasWater - Miles Hampton, Mike Brewster and Dean Page - for providing their insights because it is a very important part of this.

In dealing with this bill I am very conscious that local government is a part of this. We should pay attention to the Government's component, more particularly because local government is a sphere of government. The Government made a decision to go down this path. It is important to recognise that. We need to be convinced it is kosher, that the mechanisms put in place are fair and reasonable. As to the local government component, they have stood up and said, 'Yes, this is the path we want to go down.' We need to respect that as that third sphere of government.

Ms Rattray - That is what they asked for.

Mr VALENTINE - It is, and in dealing with this we would not want to be saying that local government should not have done this or that.

Ms Rattray - I was just asking the question.

Mr VALENTINE - Sorry, I am not pointing to the member in particular. I am addressing the member for McIntyre, but I am not accusing her. There is a big difference.

The bill does four things - it provides for councils and the Government to be shareholders under the Water and Sewerage Corporation Act.

An important aspect is that the Government is not getting any dividends. It is not a power grab, as we can see it today. If that were to change, the act would need to be amended in parliament to allow Government to receive dividends.

The parliament will have an eye on it and no doubt if it came to that point, this House would be inundated by requests from local government to have a close look -

Ms Rattray - We might hear from people who were involved in TasWater at a previous time saying, 'No, that is not right, that is not what it was meant to do'.

Mr VALENTINE - I am sure many founts of wisdom will have their say, and, as members of this House always do, we will listen to the concerns of those involved.

No dividends to Government. This provides for the Government to gain a 1 per cent shareholding for each $20 million it provides to the corporation and that builds to 10 per cent over an expected 10 years.

No payment of loan guarantee funds or income tax contributions, so the corporation will get the full benefit of each $20 million payment. The payments do not appear as revenue. I will leave it to others to decide whether that is fair and reasonable or whether there is anything hidden there. The member for Murchison may enlighten us.

Ms Forrest - They still get the full amount. It's just that some of it is income tax-equivalent, some of it is guarantee fees, the rest is the div - now it is all the dividend. It is the same amount.

Mr VALENTINE - Yes, it is all the dividend. It is the same amount, so they have the full benefit of that or with the income tax equivalents and loan guarantee components they used to pay before, does this mean they had a lesser benefit out of, say, $20 million?

Ms Forrest - No, it is doing the same thing in a different way; it's just to make it simpler.

Ms Rattray - Members are getting more help from within the Chamber than from the Government.

Mr VALENTINE - The Economic Regulator cannot set a minimum price apparently under section 66 of the Water and Sewerage Industry Act. Correct me if I am wrong, Leader, but it means that if the corporation felt it needed to raise the price, it is possible for them - if they can convince the regulator it is fair and reasonable - to raise it above the CPI.

Ms Rattray - But they would negotiate.

Mr VALENTINE - They would negotiate, an important aspect to remember. In the lead-up to where we are today, councils were provided with the memorandum of understanding, the amended constitution, the changes to the Shareholders' Letter of Expectation and the bill.

Ms Rattray - I am not sure the bill would have helped them that much.

Mr VALENTINE - They were provided with the changes to the act and it gave them the opportunity to examine this. On 27 September, resolutions were passed by the councils to adopt the amended constitution to approve the Shareholders' Letter of Expectation. This provides the necessary power for the board to make it happen on behalf of local government and the part they play in all of this.

It is contingent on the bill being passed in substantially the same form as was provided at the meeting. We should be careful when amending this. I do not think anyone is and I have not seen any evidence at this point -

Ms Rattray - I think we might leave it alone.

Mr VALENTINE - Yes, that is probably a sensible idea.

Ms Forrest - There won't be any income tax equivalents and guarantee fees after I have explained it to you.

Mr VALENTINE - I will be listening. With the joint approval of the draft corporate plan of TasWater, does it mean the Government has the power of veto if they refuse to endorse a plan that does not deliver what the Government wants? I was told, no, because the makeup of the board is two to three.

Ms Forrest - They are not on the board anyway.

Mr VALENTINE - No, but they have the power to suggest the election of an individual.

Ms Forrest - They can sit on the panel.

Mr VALENTINE - On the selection panel, that is right, which means the Government gets a say on who is there. If they have a say on who is there, that might mean it is possible that person could be championing the Government's cause. If it did get to that point, it is still only two to one. There are two who do not have any contact with the Government.

Ms Rattray - It is going to be skills-based so they will understand their role.

Mr VALENTINE - That is right, but the point being made is that the draft corporate plan, when it goes to be approved, does not have overt government influence That is the point I am trying to make.

Mr Gaffney - It is a better position to be in now than what it was because the local government and state Government should be closely connected when it comes to water and sewerage for the community. They have to work together to get projects up and running and to work as a team, more so than 18 months ago when it was adversarial. It has been a very wise move by having somebody connected but not overtly so. It is maturity.

Mr VALENTINE - It is not overbalanced. It was interesting to see that it has been agreed that the parties will seek to accelerate the infrastructure investment program by at least a year, not three years as it was originally intended.

Ms Forrest - We have lost 18 months.

Mr VALENTINE - Yes, there is that; it has taken some time. To expect a three-year acceleration on a 10-year project was a significant step the Government took and championed, which I do not think was ever able to be delivered, to be honest. Seeing a year now being espoused is far more feasible.

That is the only contribution I have to make. I will listen to the member for Murchison's explanation of the tax and whatever else and I will listen to other contributions. I intend to support the bill at this time.

[3.33 p.m.]

Mr WILLIE (Elwick) - Mr President, we have spoken at length about this issue in this House over the last couple of years. The last bill detailed some of the history and shortcomings of the debate.

I congratulate local government and the TasWater representatives for standing up for their principles, using reasoned argument, for providing evidence, for providing detailed modelling when some pretty ordinary politics was being played. They demonstrated leadership capacity. TasWater is in great hands under their leadership; in those difficult circumstances they rose above it. I congratulate them for not capitulating and for standing up for their principles.

There was a lot of wasted time when they could have been working together. I also acknowledge TasWater is dealing with some significant legacy issues. It cops a lot of the blame for those issues, but TasWater was not in existence when many of those issues started to develop. It is going to take time to resolve many of those issues across our state. They should be given the opportunity to try to resolve those before there is any intervention at all. This way forward, while not perfect, provides peace, which local governments welcome.

Various members of our community think this is a broken promise, including the Premier's former chief of staff who detailed that in the newspaper on the weekend. Had he still been around, perhaps the Government might have been sticking to its guns on this issue. I do not know how much influence he had as an individual but it was probably significant.

We know this plan is not going to significantly increase capital expenditure. A lot of the Government's contribution will be used to facilitate the price cap. We heard from the chair of TasWater in the briefing that there are special circumstances within the constitution. The board can override that cap if need be, that cap will not necessarily undermine the sustainability of the business. That has given me a little bit of comfort.

A concern I raised in the briefing is that the Government does not necessarily have enough skin in the game. The chair of TasWater is very confident they will deliver on its key performance indicators but my concern is that state Government members may see another political opportunity to come back and revisit this in three, four or five years time.

Mr Valentine - Do you mean a different party in power or any government?

Mr WILLIE - No, I am talking hypothetically.

Mr Valentine - Any colour.

Mr WILLIE - I do not think the state Government is bound enough by this new agreement not to walk away at some stage and end up where we were maybe 18 months ago.

Mr Valentine - They would be caned, wouldn't they?

Mr WILLIE - Potentially. I am about to go into that. Some of our Government members still have contempt for the process and are still blaming other people and this House. In the second reading debate downstairs, the member for Braddon, Mr Brooks, said -

> Part of our job as MPs and the Government is being a government that listens but also understands the reality of what we can and cannot achieve. Unfortunately, due to the Labor-Greens bloc, we were not able to proceed with our original plans for dealing with the issue that was raised by the community. It was raised on behalf of the constituents that came into my and my colleagues' offices, and I have no doubt they would have gone to those opposite.

He went on further and said -

> I would be surprised if there is not an MP in this Chamber who has not had a TasWater issue raised with them.

Fair enough -

> The government did not own TasWater. It was owned by the councils and people did not understand that. They wanted to know what we were doing about it and how we were going to fix it. That was part of the drive behind the original policy setting. The Labor-Greens bloc effectively killed off the constituents' wishes and we had to revise and amend the strategy because we are a government that listens…

That is a little bit ironic.

There is a Government member not accepting that they could not provide the evidence for the takeover, that they did not listen to the community, and they are blaming this House and a supposed Labor-Greens bloc.

I looked at the vote in this House. The ayes on the takeover were: the member for Launceston, Ms Armitage; the member for Windermere, Mr Dean; the former member for Western Tiers, Mr Greg Hall; and the Leader of Government Business, Leonie Hiscutt. The noes were: Mr Armstrong - is he a Green? I do not know; Mr Farrell - he is a Labor member so there is one of Labor's; Mr Finch - I don't know if he is a Greens member; and Ms Forrest, are you a Green?

Ms Forrest - No, not Labor either.

Mr PRESIDENT - The member might want to look at standing order 99(5), commenting on expressions of other members, and might not want to continue down the path he is going. He has probably already made his point.

Mr WILLIE - I am not reflecting on a vote of the other House, Mr President; with a little bit of indulgence, I am reflecting on a vote of this House.

Mr PRESIDENT - It is -

> digress from the subject matter under discussion, or comment upon expressions used by any other Member in a previous Debate. All imputations of improper motives and all other personal reflections are disorderly.

It comes under that standing order. That being the case, it is best it does not continue. I gave you a certain amount of leeway.

Mr WILLIE - Okay.

Ms Rattray - You did not get to the member for McIntyre.

Ms Forrest - Where was she?

Mr WILLIE - I was trying to do some detective work but I will listen to the President.

Mr PRESIDENT - Forensically.

Mr WILLIE - The point I was trying to make, Mr President, is that the Government has not handled this well. I still have concerns we could end up where we were 18 months ago. There are not enough binding structures in the new arrangement for a future government not to walk away from the current deal, particularly when the price cap injection of funding from the government is mainly for that purpose. It is not necessarily to increase the capital expenditure. Alleviating household costs such as water and sewerage is not necessarily a bad thing. If the Government wants to invest money to do that and take the pressure off households, so be it, but it is disingenuous to say it is going to rapidly increase the capital expenditure because it is not. It is not going to significantly do that at all. Mr President has taken a bit of the wind out of my sails.

Ms Rattray - That happened to me yesterday.

Mr WILLIE - I will conclude because I have said a lot of this before. Local government is happy for the peace and Labor is not going to stand in the way of this but we remain deeply sceptical and deeply critical of the Government in the way it has handled this. We look forward to TasWater being given a clear run to deliver on some of its commitments. There is some really good leadership within that organisation and in five, six or seven years time we will start to get towards the end of that infrastructure plan, which will be a great thing for Tasmania. The Labor Party will support the bill.

[3.42 p.m.]

Mr DEAN (Windermere) - Mr President, I support the bill. Water and sewerage energy costs would be one of the most significant issues concerning almost all Tasmanians at this time. Living costs are a big issue and these services contribute significantly to the living cost for us all. We need to be very careful when looking at these issues, looking forward at cost control. We need to make sure we have a good position. There is almost a conflict of interest. Here we are -

Ms Rattray - Is that because we all pay water and sewerage rates?

Mr DEAN - Yes, we are dealing with matters that directly benefit or impact us in some way. It is like rates and taxes in councils. When you are dealing with those matters, they directly relate and impact on all of us.

Mrs Hiscutt - I live in the country. I don't pay it. I have to supply my own.

Mr DEAN - Well, you are right.

Ms Forrest - You have to pay for it; you've got to supply your own.

Mrs Hiscutt - I do it myself.

Ms Forrest - You are still paying for it.

Mr DEAN - I have a shack down at Dodges I do not pay any water and sewerage charges on.

Mr Gaffney - Can you fix that?

Ms Forrest - Make sure you back pay the amounts.

Mrs Hiscutt - Move on, member for Windermere.

Mr DEAN - I have a septic tank and my own tanks so I do not need to. There is nothing down at Dodges Ferry. I do not know when we are going to get water. Maybe it will come one day. I hope it does not.

Ms Forrest - You will have to pay if it goes past your property.

Mr DEAN - I hope it does not. I hope that Dodges Ferry never gets the water in the area I am in. I am praying it does not happen. I can provide it more cheaply.

The water and sewerage bills are high and the number of complaints I have from customers in relation to water and sewerage issues normally deal with costs and quarterly bills. They raise issues and I am forever dealing with these matters.

My own account for a residential property and water costs for last quarter was $30.46, moderate. We are very frugal with our use of water, but the infrastructure costs are $250.28 for the quarter between 1 July and 30 September 2018. That is why people cannot understand such high infrastructure costs when their water usage is normally very low.

We all had those letters from the gentleman from Queenstown - the member for Murchison will recall this - where he had a private block of ground with no building on it and his water charges amounted over a fairly short time to a greater cost than the land itself was worth. He came to all of us.

Ms Forrest - Things are changing in Queenstown. Land values are going up, properties are selling, people are doing up old buildings.

Mr DEAN - That is good. In another property near me where they use no water at all, their water charges are nil but infrastructure costs are almost the same amount per quarter. It is not surprising people get a little upset and annoyed at what is happening.

People are asking: What is going to happen now? Will they see these prices benefiting them in the long term? A lot are saying it will not.

What irks people is when water changed in the first instance from local government across to the four regional bodies and Onstream

Mr Gaffney - Three regional bodies and Onstream.

Mr DEAN - Customers were told the bill they would pay for their water and sewerage would be taken away from what they were currently paying in their council rates charges. They would see

a significant difference in the account. That never materialised to the extent people thought it would happen. In fact, they remained much the same and did not go down.

Then we had the change to TasWater. Members will remember the briefings in relation to that, where the chair at the time told us there would be a saving of about $5 million because of changing from where it was to TasWater.

Once again, the consumers saw no benefits whatsoever. Some would have done because infrastructure went into their areas where water and sewerage was not being delivered in the right way. The general mainstream consumer did not see any benefit. It is not surprising they currently have concerns about where all of this is going.

I raised some of these and issues with the bill with the Treasurer recently. I raised with him the situation of whether or not this was likely to speed up some of the issues Launceston currently has in relation to the Tamar River, Ti-Tree Bend and the sewage treatment plant.

The Treasurer was very good about it. He wrote to me in some detail, explaining to me all the moneys that were going to be made available to fixing those problems, or at least going towards fixing those problems, in the Launceston area over the short term. It might be best if I read a couple of paragraphs from that document. Part of the way down, he writes -

> I have recently written to TasWater to commit the State Government to working closely with TasWater to ensure that this strategic investment of more than $400 million in total achieves the best outcomes for Launceston, the northern region and importantly TasWater customers.

That is a good position -

> The Government and TasWater are working together to deliver the more than $400 million of projects into fixing water and sewerage issues affecting the Tamar River, and this funding begins to flow from the 1st of January 2019 when the first river remediation work recommended by the Tamar Estuary Management Taskforce begins.

That is comforting again -

> Thanks to TasWater's investment, funding from the Federal Government and the Hodgman Government's commitment to improving water and sewerage infrastructure, all three levels of government are working together to deliver better outcomes for the north.
>
> Furthermore the Government, TasWater and TasWater's Chief Owners Representative recently negotiated an MoU that, if endorsed by Tasmania's councils, will see even greater collaboration between the Hodgman Government and TasWater. It would also see the Hodgman Government invest $200 million into TasWater to ensure that investment can be brought forward while keeping prices lower.

We heard all about that MOU this morning and it was a detailed document.

There are issues and concerns, but they are looking very closely at the north of the state and the problems there.

Mr Gaffney - That is quite good, isn't it, because a minute ago you were worried about not getting any value for $5 million and you now have $400 million that is going to help your community.

Mr DEAN - This is a whole different thing; you have it wrong. This is for the infrastructure. The other matter I was talking about was the general cost to the everyday consumers, the mums and dads et cetera.

Mr Gaffney - The $5 million they saved goes into infrastructure in other parts of the state that need it to fix boil water alerts.

Mr DEAN - I did say that initially. I said that while most did not see any benefits at all, some areas where they had sewerage and water issues, and those resources fixed, saw a benefit.

Mr Gaffney - That is good. Sorry. Now it is good Launceston ratepayers are going to get $400 million-worth of infrastructure paid for by the rest of the state.

Mr Valentine - Four hundred million - and what was Macquarie Point, $140 million?

Mr DEAN - I thank the Government for the briefing this morning. Many of my questions and concerns were answered during that process. I was not sure what the state Government's position would be with its ownership in TasWater by paying $20 million each year for 10 years. What difference does that make to their ownership of TasWater? What position does that give the Government in TasWater and any decisions or any position they want to take with TasWater? The first year, when they pay the $20 million, what difference will that make to the state Government's position compared to if they pay the whole $200 million in 10 years time? I do not think it makes any difference at all.

Mrs Hiscutt - It makes no difference.

Mr DEAN - You are right. The member for Elwick has gone. It is no secret I supported the previous bill that came through this place and I supported the bill for state ownership of water and sewerage in this state. I still believe for the resources of water and sewerage in this state, that state full ownership was the best model. That is my personal view. The same as with energy, and we should never, ever lose energy.

Mr Valentine - Windfarms are privately owned.

Mr DEAN - I thought the Government had the best position but I accept what has gone on.

The other issue I raised this morning was that the price cap will only be in place until July 2020 and then we could see an almost 20 per cent price increase by 2025.

From 2020 to 2025, we will see our bills increasing by one-fifth, so a person now getting a $200 bill per quarter will have a $240 bill, an increase of about $160 per annum. This could happen. I am interested to see how this costs - and you might be able to come back then and see if I am wrong.

People are asking the question: it is capped now but what will be the position in five years time, 10 years time? At the briefing this morning I raised this, whether there will be a catch-up period. I am not sure.

It is legislated that a state government cannot and will not be receiving any dividends, as was the position always. The chairman of the board made this comment this morning that even in the initial takeover position of the state Government, it was identified it would not be taking any dividends from water and sewerage. It was always clear and in the legislation here, so therefore no person should be able to raise issues on this point.

I conclude by saying that generally TasWater is doing a very good job. I have no qualms. I have had a number of issues and complaints brought my way and I have gone to TasWater and they have always actioned them fairly quickly, so that is a good position. One that comes to mind is recently at Hillwood, where we had problems with dirty water coming into houses; the matter has been fixed fairly quickly. It is good this is happening.

I certainly support the bill and hope that in the long term it delivers what people are wanting and expecting, which is some good price control.

Ms FORREST (Murchison) - Mr President, I was not planning to say much on this bill but the member for Hobart was so encouraging I thought I would.

I support the bill. I supported the process being dealt with and the first facilitation of this process to allow the councils, the owners of TasWater, to make a decision about whether they would accept this proposal.

As I said by interjection a moment ago, we could have saved 18 months of pain and uncertainty and frustration for many people had the Government considered this option earlier when it was proposed to them.

I personally proposed it and the Treasurer told me not to be so silly. I am sure the owners of TasWater would have done so. It takes time to get there; it is a bit like the health system really, with the one versus three health organisations or whatever you want to call them. We got there in the end, but there was a loss of time, a loss of money potentially on the way and the frustration that exists.

I am not going to go back over the whole history because we have done this to death a couple of times, but I will make a couple of points about some aspects of the bill. It was raised in the briefing and I appreciate the briefings provided by Mr Miles Hampton, the current chair of TasWater, still, though I know he is planning to get away at some stage -

Ms Rattray - And dump that big file. He will put it in the bin.

Ms FORREST - He might have to keep it for a few years. There is some information there that cannot be destroyed, I suggest.

The issue was raised in the briefing about governments interfering in pricing. The member for Mersey raised this previously on electricity as well; it is the same. You have an independent regulator who is there for a purpose. If the independent regulator is getting it wrong, maybe we need to look at the regulator and how the regulator is operating. Once you allow government

interference, the risk of pork-barrelling becomes significant and a race to the bottom can begin before elections. Then, after the election, who knows what is going to happen. That is always a concern to me.

It also means in this circumstance that should the capital expenditure requirements - and this is a very capital-intensive business - be such that to cover them a price rise of above 3.5 per cent would be necessary to achieve it, decisions have to be made by the TasWater board on how they are going to manage that.

There are a limited number of options. One way would be to defer, delay or not do capital expenditure projects. They cannot really defer them for too long or not do them because these are essential infrastructure upgrades. As we have said before, we want a service we can afford at a price we can afford, so it has to be compliant and it has to meet the needs of the people who are using it for health and safety reasons and all sorts of things. To delay infrastructure or capital expenditure projects may be an option in some circumstances but not a solution in the longer term.

The Government may decide to bring forward some of the payments a bit and enable that work to continue if it is a particularly expensive project that needs to be done.

There are mechanisms that can be used to deal with that, but you are making it more challenging. That is not necessarily a bad thing because it makes the TasWater board and the management question how they are managing to meet the requirements expected of them.

I wanted to raise that point. It is always fraught when we put in place a system that allows the overriding of the independent regulator.

Mr Valentine - The regulator can still set the cap.

Ms FORREST - They set the maximum and TasWater can charge less if they want to.

Mr Valentine - That is right and they can charge less.

Ms FORREST - I made a bit of a flippant comment that perhaps Hydro could charge less sometimes, too. It operates under the GBE act but TasNetworks is a state-owned company which operates under the Corporations Act. They are supposed to make a profit; that is what they are there for. Anyway, it creates this risk of political interference.

I do not have an issue with the other aspects of the bill. There was discussion about the payment of dividends, but the Government will not be taking dividends. I think that was always the intention, otherwise we are giving money and they are taking it back. What is the point? That is a sensible decision. It is in the legislation. Legislation can always be changed, yes, but the intent is pretty clear and I imagine it would be a bit of a devil's own job to get it through this House if that were changed in the next 10 to 20 years.

On the issue of income tax equivalents and loan guarantee fees, this is required because it is a competition policy aspect that TasWater has to pay income tax equivalents and guarantee fees to their owners. This requires them not to pay those. They will still pay the same amount, but it will all be classified as the dividend. The end result is the same: they still get the full amount of money for the same value. It is just called a dividend.

If, for some reason in the future - I can't see how this would happen - we had a competitor and it was no longer a monopoly, you would have to go back to the requirement to pay income tax equivalents and guarantee fees as well as dividends, potentially.

Mr Valentine - Thank you for that explanation.

Ms FORREST - I initially thought the Government was going to take a seat on the board. I may have been wrong but that was my impression. They are not, according to the information we received at the briefing today. Treasury will have a seat at the table in selecting board members. They want a skills-based board. They will not be selecting someone to be their spokesperson. That is not what the role of a board member is. It is not a representative board.

Mr Valentine - It shouldn't be.

Ms FORREST - It is not a representative board. It is a skills-based board that has to act according to the -

Mr Valentine - I appreciate that. It is the same as a representative of the Hobart City Council who sits on the TMAG board. They are not there to represent the council.

Ms FORREST - It is good governance and principles. That is right. You have all the responsibilities of a board member. If the Government has a view on something, they can bring that forward but they are only one voice around the table. Once they have paid the first $20 million, they will have the opportunity to look at the corporate plan and agree or suggest changes as any other owner will as part of their role. The other 29 councils get a look as well.

Mr Valentine - There's only one representative from them, one Treasury representative and the board's chair.

Ms FORREST - Do the 29 councils not each get a look at this?

Mr Valentine - No, I don't think so.

Ms FORREST - Are you saying there is only one representative for all 29 councils?

Mr Valentine - All 29.

Ms FORREST - That is what I thought I heard in the briefing. Looking around the room I understand that is the case. They are only one voice in 30. They can have their say if they thought it was inappropriate or wrong and they may need to convince all of the other councils, but they are not going to stymie the work determined necessary by TasWater in that period. They will have a look at it, they can have a say on it, but they cannot say they do not like it and demand it be done again. They can try but they will not get all that far. That removes some of the political interference aspect that concerns me. It completes the process we started some time ago.

I commend the Government for working cooperatively with TasWater since the last election, particularly given that they went to the election with a completely different policy. They saw after the election that there had to be another way. The feedback in the community was clear about that and some of the feedback from this place was clear about that: people were not happy with that approach. Good on the chairman, Miles Hampton, for sticking to his guns and continuing to put

forward an alternative solution, with the Government finally starting to listen. It took a while, too long, but you made it in the end.

[4.08 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank members for their questions and their support.

The member for McIntyre asked some questions. The changes to section 10, about the number of shares owned by each council, are proposed for simplicity. This does not change the relative voting percentages of each council. Currently, most matters requiring approval by councils are determined on a show of hands with one vote per shareholder. Each share has different voting rights, currently expressed as a percentage based on the value of assets contributed to TasWater when it was formed. The voting rights are relevant for certain matters, such as a change of shareholding. The current voting rights are to be converted into a number of shares, apportioned from a total of 90 million shares.

Ms Rattray - Exactly as my advisors in the Chamber, the members for Mersey and Hobart, said. Thank you.

Mrs HISCUTT - The member for Windermere had a question. The financial modelling provided by TasWater shows that TasWater expects prices in the long term - that is over 20 years - will be lower under the MOU scenario than under the business as usual case. The financial modelling does not include any price catch-ups in the later years. Members, that addresses most of your questions and, hopefully, we will proceed.

Bill read the second time.

WATER AND SEWERAGE LEGISLATION (CORPORATE GOVERNANCE AND PRICING) AMENDMENT BILL 2018 (No. 53)

In Committee

Clauses 1 to 11 agreed.

Clause 12 -
Section 65 amended (Price and service plan)

Ms RATTRAY - Madam Chair, to clarify, in clause 12 where it talks about -

> A regulated entity may, without the approval of the Regulator amend a proposed price, in relation to a service, that is set out ...

Is this the area that covers where there has to be negotiation to change the price or am I in the wrong area? I want to be entirely clear on what this refers to.

Mrs HISCUTT - It is prior to the price and services plan approved last April, which was for a price increase of 4.6 per cent. This part enables the price freeze to happen, at 3.5 per cent from 2021. This part talks about the price freeze.

Mr Dean - What is that, sorry?

Mrs HISCUTT - The part the member for McIntyre is talking about enables the price freeze to come in at 2020 and then after that at 3.5 per cent from 2021 onwards. The plan has already been approved, but this puts the freeze into it.

Ms RATTRAY - We heard through the briefing if there was a need, if interest rates were really high, the board would need to reassess the price and might be able to put it up higher than 3.5 per cent, I understood by negotiation, but maybe I was listening to the wrong aspect.

Can I have some clarification on when there would be a negotiation aspect, if the price needed to rise for unforeseen circumstances like the interest rate or, as I recall Mike Brewster saying, when there may need to be a reduction in the capital expenditure and, therefore, there would need to be some changes? I want to clarify when that negotiation aspect of pricing, and possibly a reduced capital expenditure, might come into play.

Mrs HISCUTT - The price freeze and the price cap are not expressly included in this bill. The flexibility to increase prices above the cap is in the Shareholders' Letter of Expectation. I have some more information coming if you would like to hold on until it arrives.

Ms Rattray - It is useful to have it on the public record, Leader, when this involves a lot of councils and we want to make sure it is clear for their understanding and mine.

Mrs HISCUTT - It has to do with a future price and services plan. The negotiation would occur if, in the future, the regulator approved a maximum of 4.5 per cent increase and TasWater initially had proposed a 3.5 per cent increase. Then, due to interest costs, if TasWater wanted the price increase to go above 3.5 per cent, it would discuss that with the Government, but only up to the maximum approved by the regulator.

Ms Rattray - That is with the negotiation?

Mrs HISCUTT - That is where the negotiation is coming. There is more clarification on the way.

Ms Rattray - This is very helpful.

Mrs HISCUTT - That is good, and you take all the time you need to get it right. Part 21.5 of the Shareholders' Letter of Expectation says there are circumstances outside the board's control, such as interest rate increases. TasWater, the Government and the Chief Owners' Representative consider options about the price cap and infrastructure investment program.

Ms Rattray - That is where they may need any expenditure in the future?

Mrs HISCUTT - That is correct.

Mr DEAN - I cited some figures during the second reading debate, but I am not sure whether you answered or could answer it, but with the price cap is in place until July 2020, is it right we could see a significant increase from that point on? Would that then depend on the independent regulator? Can you explain to me as exactly what it will look like in the future? I have here

'increased in 2025', so can I be given what the increase could be to 2025 and beyond? Where do we get back on track? What is the position?

Mrs HISCUTT - For the member's interest, the answer I gave you, plus a little bit more. The financial modelling provided by TasWater shows TasWater expects prices in the long term, over 20 years, will be lower until the MOU scenario. So it will be lower under the MOU scenario than under the business as usual case. The financial modelling does not include any price catch-up in the later years, so the price freeze is only for the years 2019 and 2020 and the 2020 to 2025 is up to a limit of 3.5 per cent.

Mr Dean - Over the whole period or 3.5 per cent per annum?

Mrs HISCUTT - Per year. In the year 2020 or 2021, it will be no more than 3.5 per cent. It may be less but will be no more than -

Mr Dean - Then in the next it could be up another 3.5 per cent?

Mrs HISCUTT - That is correct.

Mr Dean - The year after, 3.5 per cent, so right through.

Mrs HISCUTT - It may be less depending on CPI and where things are at. Those prices increases would be lower than under the business as usual process we have at the moment.

Mr DEAN - How much less? We could see an annual increase by the year 2025 of $160 in water and sewerage for the ordinary mums and dads and so on. That works out about right. What would the price have been at that time if it had not been for the cap? How much extra would it have been? I want to know what the benefit is of the cap to the average customer.

Mrs HISCUTT - The financial modelling that has been done supports what I have said but we do not have that at hand. There is financial modelling that has been done that says that under the current scenario the prices would be higher. This scenario in this bill means the prices will be lower, as I explained earlier, up to those figures. Financial modelling has been done on that.

Mr Dean - Can't we be given that financial modelling? Is it possible to table that?

Mrs HISCUTT - I have that information here and I am happy to table it.

Mr Dean - I have not seen it and I do not know whether it has been made available.

Mrs HISCUTT - It was done by TasWater. I am informed that members have been provided with this; there was a package of information given out a couple of months ago, but I am happy to table it again.

Mr Dean - If it is already there, I will get it.

Clause 12 agreed to.

Clauses 13 to 15 agreed to and bill taken through the remainder of the Committee stage.

ELECTRICITY SUPPLY INDUSTRY AMENDMENT (PRICE CAP) BILL 2018 (No. 13)

Second Reading

[4.28 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

That the bill be now read the second time.

Mr President, the Government is committed to keeping cost of living increases for government services as low as possible. Members would be well aware of the impact electricity prices have on the household budgets and the cost of doing business.

Electricity prices have been increasing nationally due to a number of factors including the retirement of low-cost coal-fired power stations and the increasing prevalence of clean renewable sources. In this evolving environment, the Government is actively working to maximise Tasmania's competitive advantage in renewable energy while ensuring Tasmanian electricity consumers are protected from increasing prices.

Through the Government's Tasmania-First Energy Policy, the Government is committed to delivering secure and reliable electricity supply and the lowest possible power prices. Our commitment is to have the lowest regulated electricity prices in the country by 2022.

While this work is progressing, the Government has committed to keeping cost of living increases at or below the rate of inflation for the next three years. This includes a cap on regulated electricity prices for three years from 2018-19.

This bill before you today delivers on our commitment to take action on the cost of living and provides for increases in regulated electricity prices for small customers to be capped at the rate of change in the Hobart consumer price index.

Some members will recall that in this place over 12 months ago legislation was passed to amend the Electricity Supply Industry Act 1995 to enable the Treasurer to determine a wholesale electricity price to be used in determining regulated tariffs, thereby protecting residential and small-business customers from electricity price volatility.

While our aim, as evidenced by the action we took, was to ensure that our regulated electricity tariffs were affordable and reflective of cost-of-living increases rather than other factors such as those influencing prices in the National Electricity Market - NEM - the amendments made at that time did not apply any restriction to the level of increases that could apply to regulated tariffs. Since that time, the Government has made a commitment to restrict regulated electricity price increases to no more than the increase in the consumer price index.

This commitment is enshrined in the bill before the House today.

For the three financial years 2018-19 to 2020-21, increases in regulated electricity tariffs will be capped to no more than the increase in the Hobart CPI. The amendments within the bill require that the Tasmanian Economic Regulator must not approve draft standing offer electricity prices

submitted to it by Aurora Energy, the state's only regulated offer retailer, unless those prices are no higher than the prices for the previous year indexed by CPI.

The provisions introduced last year remain in force. If the Treasurer considers that the market-based mechanism which determines the wholesale electricity price in Tasmania is not delivering a price consistent with the actual wholesale cost in the state, the Treasurer may issue a Wholesale Electricity Price - WEP - Order, determining the price to apply. This enables the removal of external price shocks that may occur on the mainland from impacting the Tasmanian wholesale price.

The bill does not change the provisions that were inserted into the Electricity Supply Industry Act last year. The WEP Order process remains the same. If a WEP Order is to come into effect, it must be published in the *Gazette* by no later than 15 May prior to the increase in tariffs that will apply from the following 1 July.

For 2018-19, a WEP Order has already been made. The wholesale electricity price to apply from 1 July 2018 is $79.68 per megawatt hour. The application of this wholesale price has ensured that tariffs for 2018-19 increased by no greater than 2.1 per cent, the increase in the Hobart CPI between the December quarter 2016 and the December quarter 2017.

Under our 'Lowest regulated electricity prices in the nation policy', the Government will break away from mainland electricity wholesale contract pricing. This will involve a detailed analysis of options to determine a mechanism which will best meet the Government's objectives.

This body of work will take some time given the need for extensive consultation with key stakeholders and market participants.

As the current retail price determination by the Tasmanian Economic Regulator applies to 2019, and given the changes to the regulatory framework that will be developed, this bill extends the current retail price determination until 30 June 2021. This means that the regulator will not be required to undertake a further price investigation and determination process until the new regulatory arrangements come into effect. Such an investigation would provide little value given that this bill is setting the maximum price increases that can apply over this period.

Members may be aware that a two-year sunset clause currently applies to the WEP Order provisions that were enacted last year. These provisions are contained in the Electricity Supply Industry Amendment (Pricing) Act 2017 and require an independent review into the operation of the WEP Order provisions to be undertaken within 18 months and a report to be tabled in each House of parliament. Unless both Houses agree that the provisions are to remain, they would be repealed.

Given the certainty that this bill provides in regard to regulated electricity prices that will apply over the next three years, these provisions are being extended for a further two years, which will align with the timing for the review of the wholesale regulatory arrangements to be completed. At this time it is likely that new legislation will be brought before the parliament for consideration.

Mr President, this bill delivers on the Government's commitment to legislate to cap power prices at CPI for the next three years while we begin the complex task of delinking Tasmanian electricity pricing from the NEM.

I commend the bill to the House.

[4.36 p.m.]

Ms FORREST (Murchison) - Mr President, I will take a word out of the Government's playbook when it comes to amendments in this place. I will not be opposing this legislation. As we mentioned in the briefing, it remains a concern when governments interfere in energy pricing. I understand the volatility in the wholesale energy price, particularly the Victorian wholesale energy price, and some of the factors behind that. This response from the Government is to give effect to a policy to keep energy prices low for Tasmanians. That is a really good thing because many Tasmanians are struggling to pay their energy bills. There are fundamental, underlying problems not being addressed and some of these cannot be addressed by this state. They need to be addressed by the Commonwealth.

As to the Wholesale Electricity Price order, as the Leader said, the Treasurer may issue a WEP order if he considers that market-based mechanisms to determine the wholesale electricity price in Tasmania are not delivering a price consistent with the actual wholesale cost in the state. One has already been created to cap the price rise at the Hobart CPI of 2.1 per cent. It has the effect of removing external price shocks. We added the two-year sunset period when we dealt with this last year because we were told that Treasury was going to undertake a review to decide whether to delink from the Victorian wholesale energy price setting. It appears it has done that review and decided this is the way to proceed. I am not sure how broad and public that review was. It seems it was a decision that had already been made. We are now looking at how to put a framework in place to keep a cap on electricity prices, and some would argue that is the only thing this state could do without Commonwealth intervention in some of the issues they need to address.

On 22 October there was a really interesting MacroBusiness podcast. I am happy to share this with members if they do not have access to MacroBusiness. It is called *The Influence of Gas on Renewables*. It talks about the issues with the oligopoly we have with gas on mainland Australia and the challenges when governments fail to act on this, which is impacting on electricity prices. If those in Treasury have not listened to it, I strongly encourage them to. As it says on the post with the podcast attached -

> There is only one answer: regulation. We need domestic gas reservation and pipeline price fixing. Now endorsed by the ACCC:

Until we address some of these challenges that are bigger than us and external to Tasmania, we are still going to find it a difficult challenge. Federal governments, past and present, have shirked their responsibility in this. I will read part of an article from *The Age* 29 October by Ross Gittins, called 'Sensible electricity rules await the next government'. He has a bit of a crack at the federal government, and talks about some of the underlying problems of the electricity pricing -

> The monumental stuff-up of the move to a national electricity market, with its price blowouts at every level - generation, transmission and distribution and retail - was decades in the making. Only with the doubling of retail prices over the past decade has realisation dawned that the federal government can't escape ultimate political responsibility for a national market run by a squabbling committee of state and territory energy ministers.

There is our little part of play. It goes on -

> But Morrison's announcement last week of a desperate collection of good, bad and indifferent measures to get retail prices down in a hurry, or at least appear to

be getting them down, seems no better than a crude attempt to bludgeon some quick retail price cuts out of the three oligopolists that have come to dominate the market.

As was powerfully demonstrated by the events leading to the overthrow of Malcolm Turnbull, no government whose members can't agree that the threat of climate change is real is capable of achieving a policy regime that restores a stable future for the energy industry.

Don't be fooled, however, by the industry apologists claiming the only real problem is the uncertainty about future governments imposing a price on carbon emissions, and the rises in the wholesale price this is now causing as coal-fired power stations die of old age without adequate replacement. That relatively new problem accounts for little of the retail price doubling over the past decade, which is the underlying reason for the public's anger over the cost of electricity.

Putting the blame on the inability of the two federal political sides to agree on a response to global warming sweeps under the carpet the oligopolists' gaming of the wholesale market, the distribution industry's gaming of its price-setting formula, and the blowout in retail margins, following the state governments' deregulation of retail prices.

Companies at the distribution and retail levels are earning rates of profit far higher than they need to cover their cost of capital and risk-bearing. The public have every right to be up in arms and the federal government every right to step into the mess in search of ways to reduce profitability in prices at the retail level. Particularly because what the feds would be doing is correcting years of misregulation by dysfunctional state governments.

It is not a question of deregulation versus regulation. Electricity has always been more highly regulated than other industries and always will be. The national electricity market is, after all, a creation of government which, from day one, has been (not very well) regulated by public authorities. Rather, it's a question of how and why you intervene to correct the mess. Whether you act carefully and reasonably to get the industry moving toward a future that's sustainable, financially and environmentally. Any changes need to be fair, although in this the balance should err in favour of fairness to consumers and business users, who've been overcharged for years.

The industry can't be allowed to use the trade union argument that their present rates of profitability are 'hard-won gains' that must remain sacrosanct. When something should not have been allowed to happen in the first place, it's no crime to belatedly reverse it. Talk of 'sovereign risk' is self-interested bulldust. You can't have a democracy in which governments are forbidden to change course.

But none of this seems to describe Morrison's motivations. He want price cuts, he wants them now, he doesn't care much what stick he waves to get them. A word of free advice, Scott; claiming to have achieved bigger price cuts than the punters see in their quarterly bills will only make them angrier.

Years of problems bring us to this point. Yes, the Government is taking some action to try to address the significant volatility in the pricing arrangement we have been linked with. It has notionally been in our favour in the past; it has been stable. In recent years, particularly with the closure of the Hazelwood Power Station but not due to that alone, we have seen a significant volatility and the Government is taking action to try to find a way forward.

I trust this is an interim measure to deal with the immediate period, while a new structure is found or a new framework is found that removes the political finger on the trigger that could be potentially used for political gain.

I hope our Energy minister can work constructively with other Energy ministers from around the country, the federal Energy minister and federal government to see these major challenges addressed in a way that should have, has not but needs to happen if you are going to make headway in stopping the overcharging that has been going on around this country for years.

[4.45 p.m.]

Mr DEAN (Windermere) - Mr President, this bill, like the Water and Sewerage Legislation (Corporate Governance and Pricing) Amendment Bill is of extreme interest to consumers. The member for Murchison mentioned the tough times many of our constituents are going through in relation to energy. Clearly, any effort made to cap and control these prices is certainly welcome.

I have the *Energy in Tasmania Report 2016-17*; other members have probably looked at it. The report indicates that people are doing it tough. The numbers of billing complaints are increasing. They increased from 2096 in 2013-14 to 7767 in 2016-17, which is a huge increase. On top of that, there were another 2368 complaints in 2016-17. Total complaints for that year were 10 135. I would be interested to know why they are rising and what is going on.

Looking at electricity customers experiencing payment difficulties in 2016-17 - and why I am talking about the price and the need to cap energy prices - it seems 8000 to 9000 people are experiencing problems in relation to pricing.

Many residential customers, excluding Your Energy Support Program customers - the YES Program provides affordable energy options for Aurora Energy customers living in households that may struggle to pay their electricity bills - are experiencing trouble. A number of disconnections has resulted, with residential disconnections of 1016 in 2016-17 and residential reconnections of 476.

What happens to those people where residential disconnections have occurred and they have not been reconnected? What do they live on? How do they get by and are children involved? It really is tough on families. I hope disconnections do not occur where kids were involved. It all comes down to pricing and pricing control.

The Treasurer said in the second reading speech that 'our commitment is to have the lowest regulated electricity prices in the country by the year 2022'. Many people keep saying with our electricity and energy being created through water we should always have the cheapest energy prices and that should always have been the case in Tasmania.

Ms Forrest - You have to get the feds to accept climate change is real and renewables are part of the story.

Mr DEAN - You are right. I did a bit on climate change and the percentage of issues and problems we create in Australia, and it is low on world standards. Tasmania probably would be nil and here we are paying for it. It is an absolute nonsense it should occur. It is not surprising the number of people going to solar will continue to increase with any cost rises in energy.

There is a question in relation to the Government giving an undertaking to look at the current grandfather clause for some people who had solar already in place. This finishes in December this year, and as to whether or not the review is -

Ms Forrest - There is a review underway.

Mr DEAN - Yes, and where the review is at and when the final position will be known with the review. I have received a letter from a gentleman from Mowbray. I will not read the letter, but he has had the letter countersigned by a number of other people where he says he is currently receiving 9.2 cents a megawatt hour and he says his cost to produce is about 17 cents.

Mrs Hiscutt - I do not think that is something we can answer on this bill.

Mr DEAN - It is all to do with costs and price capping. People are trying to get around that by creating their own energy and want to know where it is going and what is happening, so it does relate to this bill.

They are some of the issues, but I certainly support it and users of energy - we all use energy in some way or another - want price capping to occur. We expect Tasmania to have probably the cheapest energy cost because of the way in which it is produced.

I will be supporting the bill.

[4.25 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President and members, quite a few questions were asked during our briefings this morning and hopefully we can clear up some here and now.

One of the first questions was: is the bill effectively interfering with the independence of the regulator? The bill provides for an interim measure to deal with the current volatility in electricity prices at the national level, to ensure those higher prices do not adversely impact Tasmanian regulated electricity prices.

The role of the regulator is to approve the electricity prices a regulated offer retailer can charge. This must be consistent with the legislative framework, including the setting of the notional maximum revenue a retailer may recover from its regulated customer base.

The total maximum revenue takes into account a number of components, including network charges, National Electricity Market costs, renewable energy certificate costs, generation costs, the retailer's cost to serve and the retail margin.

The regulator determines the retailer's costs and the costs to serve and must ensure other pass-through costs are appropriately included. The bill, through enabling the Treasurer to continue to set the wholesale price component, if necessary, requires the regulator to replace the wholesale price the regulator would calculate using the wholesale contract regulatory instrument with the WEP

order price set by the Treasurer. Capping the price the regulator may approve effectively determines the wholesale price that is to be specified in the WEP order. While the regulator is bound to replace the WEP order price, it may only approve regulated prices if those prices are no higher than the CPI for Hobart for that applicable financial year. The regulator must be satisfied other cost pass-throughs are done so appropriately. The regulator must also approve the terms and conditions associated with the retailer's tariff offerings. The amendment will only be in effect for a transitional period, while the broader review of the wholesale electricity setting model is undertaken.

The next question was: what is the status of the broader review? I think that might cover some of the questions of the member for Windermere. A consultant has been engaged to review the current wholesale regulatory framework and to develop options to implement the Government's policy to delink wholesale electricity prices from mainland prices. The consultant is having initial meetings with targeted stakeholders this week, following which an option paper will be developed. It is expected that broader stakeholder consultation will be undertaken on the options before a preferred option is presented to the Government.

Ms Forrest - I did ask if that options paper was going to be published or any opportunity for members of the public to view it, not just the selected stakeholders.

Mrs HISCUTT - I shall seek that information when I have finished reading this out.

The next question was: what happens if wholesale prices return to previous low levels during the transition period? While the regulatory arrangements have been effective previously while Victorian wholesale prices have been stable, the recent volatility in the Victorian prices highlighted deficiencies in the current arrangement. The provisions enacted last year allow the Treasurer to make a WEP order to protect regulated customers from the higher prices experienced in Victoria. The WEP order process is not a mandated requirement. Therefore, if, during the transition period, wholesale prices in Victoria return to more stable levels, the Treasurer may not need to issue a WEP order. Even though there has been a decreasing trend in wholesale prices on the mainland, there are signs they may again increase, highlighting the volatility of the market.

Another question was: why does the Government need a three-year lead time to implement the changes? The broader review requires wide consultation with market participants to fully understand the potential impacts of any change to the current framework. It is important that market participants remain confident in the stability of the Tasmanian electricity market and understand that the Government is seeking ways to ensure it continues to operate effectively. Given the need to consult widely with the critical importance of the issue, the review is looking to come up with options for the Government's consideration over the next six months. Any changes arising from the review may take further time to be fully implemented given forward market contracting and hedging arrangements, which could extend up to two years.

Another question was: what is the impact on the electricity businesses as a result of capping prices? A cap on electricity price has little impact on Aurora Energy. This is because the existing legislation provides for a pass-through of the wholesale price. Aurora still recovers its cost to serve and retail margin from its regulated customer base. The impact on Hydro Tasmania is that it will not be able to charge prices based on higher mainland costs. While this will have revenue impacts on Hydro Tasmania, it is still expected that Hydro will recover its costs and remain sustainable.

Hydro recorded strong profits last financial year and returned dividends to the Government in line with the state budget under the price-capping regime.

Ms Forrest - When you are saying they will recover costs, that means they will still be able to meet their costs but not make extra profits because it is revenue forgone.

Mrs HISCUTT - They expect it to remain sustainable.

Mr Valentine - Not too much revenue forgone, by the sound of it.

Mrs HISCUTT - Hydro Tasmania will still benefit from being able to export electricity to Victorian customers at the higher Victorian prices.

The other question was: why has the Government chosen the CPI for Hobart? The indexation of prices against the CPI for Hobart was chosen to be consistent with the indexation arrangements for the electricity concessions, which are December on December.

In answer to the member for Murchison's question, it is expected that the options developed will be subject to broader public consultation.

Bill read the second time and taken through the Committee stage.

LEGAL PROFESSION AMENDMENT BILL 2018 (No. 36)

Second Reading

[5.02 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

That the bill be now read the second time.

This bill proposes amendments to the Legal Profession Act 2007 to clarify the processes and powers relating to applications under section 458 of the act.

The act, which is based upon national model laws, regulates legal practice in Tasmania. When the act was considered by parliament in 2007, it was noted that one of the aims of the act was to protect the interests of the public and specifically consumers of legal services.

The act establishes the Legal Profession Board of Tasmania - the board - as the primary regulator of the Tasmanian legal profession. One of the functions of the board is dealing with complaints against legal practitioners. Complaints can also be heard and determined by the Disciplinary Tribunal and the Supreme Court.

Chapter 4 of the act deals with complaints and discipline, setting out the processes that apply in relation to the hearing and determination of complaints.

Where a complaint is made to the board, the act provides that the board is to investigate it unless it has been referred to or taken over by another regulatory authority or has been withdrawn or dismissed, for example, on the basis that it is frivolous or vexatious.

Upon completing the investigation of a complaint, the board has a number of options including holding a hearing if it considers that the matter is capable of amounting to unsatisfactory professional conduct or referring the complaint to the Disciplinary Tribunal or the Supreme Court if the matter is capable of amounting to professional misconduct.

If, upon completing a hearing, the board is satisfied that the legal practitioner is guilty of unsatisfactory professional conduct, the board may make a number of different determinations, including that the legal practitioner be admonished or reprimanded, pay a fine, waive or repay fees, complete a course of legal education or receive counselling, or be supervised by another Australian legal practitioner.

The board does not have the power to make determinations in relation to professional misconduct beyond referring the matter to the tribunal or Supreme Court.

As I mentioned earlier, the Disciplinary Tribunal can also deal with complaints about legal practitioners. Section 464 of the act allows any person, including the board, to make an application to the tribunal for the hearing and determination of a complaint.

In addition, section 458 provides for what I will describe as a right of review. Under section 458, a party to a determination of the board can apply to the tribunal or Supreme Court to have the matter to which the determination relates determined by the tribunal or Supreme Court. This is to be by way of a re-hearing.

Concerns have recently been raised as to the powers and procedures of the tribunal in relation to applications made under section 458.

Part 4.7 of the act sets out the powers of the tribunal, including powers to summons persons to give evidence, to take evidence by affidavit or on oath or affirmation, to require the production of documents or records, and to require the answering of questions that are material to the application. Part 4.7 also provides for the types of orders that the tribunal can make, including an order that the name of a practitioner be removed from the local roll by the Registrar of the Supreme Court or an order recommending that a practitioner's name be removed from an interstate roll. However, these powers and procedures appear to be specifically limited to applications made under Division 2 of part 4.7 (that is, applications made under section 464). Section 458 is not in part 4.7 of the act - it is in part 4.5. Therefore, it would seem that the powers set out in part 4.7 do not apply to applications made under section 458.

This has led to uncertainty about the tribunal's powers in dealing with section 458 applications.

The bill addresses this uncertainty by amending section 458 of the act to provide that the tribunal may determine an application made under section 458 in accordance with part 4.7 of the act with the exception of some specified provisions in that part that are not considered to be appropriate to re-hearing proceedings.

As section 458 also allows an application for re-hearing to be made to the Supreme Court, it was considered prudent for the sake of completeness to clarify that the Supreme Court can determine its own practice and procedure for determining an application made to it under section 458.

The bill also includes doubts removal provisions in relation to previous applications under section 458. These doubts removal provisions, set out in the proposed new subsection 458(6), deem an application made prior to the commencement of the amendments to have been validly made if it was accepted by the tribunal or court. The provisions also clarify that the fact that a section 458 application was determined by the tribunal in accordance with part 4.7 of the act prior to the commencement of the amendments is not, of itself, grounds for the determination being invalid.

I note that during the development of this bill, there was targeted consultation with key stakeholders including the Supreme Court, the Legal Profession Board, the Disciplinary Tribunal, the Law Society and the Tasmanian Bar. The Government is grateful for the assistance provided by stakeholders, particularly the Disciplinary Tribunal and the Law Society, in refining and finalising the bill.

Mr President, this bill will provide greater clarity and certainty around the powers and procedures to be applied in determining applications under section 458 of the act.

I commend the bill to the House.

LEGAL PROFESSION AMENDMENT BILL 2018 (No. 36)

In Committee

Clauses 1 to 3 agreed.

Clause 4 -
Section 458 amended (Application against determinations)

Ms RATTRAY - Madam Chair, clause 4(6) refers to the avoidance of doubt. The second reading speech talks about the provision for removal of doubt. If a determination has been made, does this make sure that whatever has been made cannot be overturned? If this had not been suitable to the Law Society of Tasmania and the Tasmanian Bar and the like, I feel sure we would have heard about it. We received a letter addressing a number of areas they were looking at. I expect they are clear with that. I wanted to make sure that is what it referred to.

Mrs HISCUTT - The member is absolutely correct. It is for removal of doubt. There is no retrospectivity. You cannot change something that has been put in place. The Law Society noted during my briefings that they had valuable input into the bill and are happy with it.

Clause 4 agreed to.

Clause 5 agreed to and bill taken through the remainder of the Committee stage.

FAMILY VIOLENCE REFORMS BILL 2018 (No. 39)

Second Reading

[5.13 p.m.]
Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council - 2R) - Mr President, I move -

That the bill now be read the second time.

This bill delivers on the Government's commitment to create a new offence of persistent family violence and makes changes to clarify the operation of section 125A of the Criminal Code and provisions of the Evidence (Children and Special Witnesses) Act 2001.

Clause 4 of the bill inserts section 170A in the Criminal Code. Section 170A provides a new offence of 'persistent family violence'. This offence recognises that a family violence perpetrator can maintain an abusive relationship, physically or psychologically, with a spouse or partner for an extensive period of time. Like other existing continuing offences in Tasmania, this new offence addresses the difficulty of proving the particulars of each offence in circumstances where multiple offences are alleged over a prolonged period of time.

It is often difficult for victims of family violence to recall in specific detail each individual occasion where they were subjected to a family violence offence. Victims of family violence may spend months, even years, under the control of a violent or abusive partner and be subjected to a range of offences such as assault, wounding or serious sexual assault. This may result in victims only being able to provide general evidence, which may cause difficulties in proving individual family violence offences and can result in the number of charges being greatly reduced.

This new offence is modelled on other continuing offences, such as the existing offence of maintaining a sexual relationship with a young person under section 125A of the Criminal Code. In order to prove this charge, the Crown is to show that the accused committed an unlawful family violence act in relation to his or her spouse or partner on at least three occasions. For this offence -

- an unlawful family violence act is an act that constitutes a family violence offence
- the indictment is to specify the period during which it is alleged that the unlawful family violence acts were committed and that the indictment is not to include a separate charge for an unlawful family violence act during that period
- it is not necessary to prove exact dates or circumstances of the unlawful family violence acts
- the unlawful family violence acts committed on one of the occasions can be different to the other occasions
- in a trial before a jury, each member of the jury is not required to agree on which unlawful family violence acts constitute the persistent family violence relationship.

This offence is intended to overcome the problem whereby victims of family violence are unable to particularise the alleged family violence acts sufficiently to enable the alleged acts to be charged separately. This may be for a number of reasons. For example, a victim may be unable to provide specific circumstances, dates or places when the alleged offences took place, or the repetitive nature of the family violence offences could mean that a victim is unable to specify each offence to the degree necessary to tell apart repeated family violence offences.

The offence also provides that an unlawful family violence act committed outside Tasmania can be considered an unlawful family violence act for the purpose of section 170A, provided that the act would have been an unlawful family violence act if committed in Tasmania and at least one

of the required unlawful family violence acts that constitutes an offence under this section was committed in Tasmania.

In sentencing a person for an offence under section 170A, the sentencing judge is to make her or his own findings as to the nature and character of the unlawful family violence acts and sentence the accused person accordingly. In doing so, the judge does not need to ask the jury which of the unlawful family violence acts the jury agreed were proved for the maintenance of the persistent family violence between the accused and his or her spouse or partner.

This new crime has appropriate checks and balances in place. Section 170A provides that this offence will only be proceeded with if the Director of Public Prosecutions consents. The proposed requirement for the written authority of the Director of Public Prosecutions to charge is an important safeguard to protect an accused person's rights.

The purpose of this new offence is to address difficulties of proving the particulars of each offence in cases of persistent family violence where multiple family violence offences are alleged. The varied impacts on victims from family violence are well documented and can be long-lasting. In such circumstances victims can find it difficult to recall specific details of each individual offence. For a person charged with conduct comprising continuing family violence acts against their spouse or partner to be held to account by the court and sentenced for that course of conduct, the court needs to be in a position to sentence the accused to reflect the gravity of their conduct. This offence will be used where there is serious criminal conduct, that is, where there are at least three occasions of serious indictable offences. The Director of Public Prosecutions is best placed to consider the weight of the evidence establishing the seriousness of the alleged conduct and whether to lay charges.

The Director of Public Prosecutions will also issue prosecution guidelines in relation to prosecutions for this proposed offence. The prosecution guidelines will provide a standard by which the Office of the Director of Public Prosecutions and its prosecutors will conduct criminal proceedings on behalf of the state to ensure transparency and maintain a consistent approach. The guidelines have been drafted and will be publicly available and will enable the judiciary, the legal profession, Tasmania Police, victims, accused persons, persons engaged with the criminal justice system and interested members of the public to understand the actions of the Office of the Director of Public Prosecutions.

This new offence of persistent family violence enables the courts to have regard in sentencing to the 'relationship' nature of family violence and may result in more successful family violence prosecutions by relieving victims from having to recall in specific detail each individual occasion of family violence. The Criminal Code provides that in certain circumstances a person charged with one offence may be convicted of another similar offence instead of the one charged, provided that the evidence establishes that the alternative offence has been committed.

The inclusion of section 337A in this bill provides that where an accused person is found not guilty of the crime of persistent family violence they may be convicted of an alternative crime or offence, such as rape, assault or abduction. To be convicted of one of the alternative offences or crimes listed in the proposed section 337A, the trial judge must be satisfied that there was sufficient evidence, adduced at the trial, to try or convict the person of the alternative crime or offence.

Clause 4 of the bill also amends section 125A of the Criminal Code. The recent *Criminal justice report* of the Royal Commission into Institutional Responses to Child Sexual Abuse

considered the matter of the requirement for extended jury unanimity, that is, the requirement that the jury identify and agree on the same occasions of sexual abuse. The royal commission recommended that each state and territory should introduce legislation to amend its persistent child sexual abuse offence so that each member of the jury must be satisfied that the unlawful sexual relationship existed but that each member of the jury need not be satisfied of the same unlawful sexual acts.

At present the offence of maintaining a sexual relationship with a young person under the age of 17 years at section 125A of the Criminal Code provides the requirement that the accused committed an unlawful sexual act in relation to the young person on at least three occasions - as in section 125A(3)(a) - and the unlawful sexual act that was committed on any one of the occasions need not be the same - as in section 125A(4)(b) - but the provision does not go to whether all members of the jury need to be satisfied of the same unlawful sexual acts. This bill implements the recommendation of the royal commission by amending section 125A of the Criminal Code through the inclusion of paragraph (c) to overcome the requirement that all members of the jury be satisfied of the same unlawful sexual acts regarding a charge under section 125A.

Subsection 6B proposes that when sentencing the accused for the offence against section 125A a judge does not need to inquire of the jury which unlawful sexual acts the finding of guilt was based upon. The sentencing judge is to make her or his own findings as to the nature and/or character of the unlawful sexual relationship on the evidence heard at trial and sentence the accused accordingly. This clarifies that the judge is to sentence on the basis that the identified occasions were not isolated acts, but rather those that took place during the course of the relationship.

The proposed provisions for the new offence at section 170A, also a 'relationship' offence, are consistent with the proposed provisions to section 125A of the Criminal Code. New section 170A similarly clarifies that each member of the jury need not be satisfied of the same unlawful family violence acts that constitute the persistent family violence relationship and provides that the sentencing judge is to make her or his own findings as to the nature and/or character of the unlawful family violence acts committed on the evidence heard at trial and sentence the accused accordingly.

I will now address Part 3 of this bill and the proposed amendments to Part 4 of the Evidence (Children and Special Witnesses) Act 2001. The Evidence (Children and Special Witnesses) Act 2001 currently provides that a self-represented defendant is not permitted to cross-examine a witness who is the alleged victim of the offence in a proceeding where a person has been charged with a family violence offence. Appearing in court can be an intimidating experience for victims of family violence. One area that can be particularly challenging is where the alleged perpetrator of family violence can cross-examine the witness.

The effect of the proposed amendments is to ensure that, in circumstances where an application is made for a family violence order or an interim family violence order, or an application to vary, extend or revoke a police family violence order or a family violence order and in relation to applications for bail, cross-examination of a witness who is the alleged victim of the family violence offence can only be undertaken by counsel. The amendments remedy an inconsistency and make clear that a self-represented defendant is not permitted to cross-examine a witness who is the alleged victim of a family violence offence during certain applications for family violence protection orders and applications for bail. This proposed amendment does not undermine procedural fairness. Cross-examination is an important part of proceedings and the evidence can still be tested with the assistance of counsel.

The principal act provides that where a defendant is not legally represented that the judge is to ensure that the defendant is warned of the prohibition, advise that he or she may be entitled to legal assistance from Legal Aid and given a reasonable opportunity to obtain the assistance of counsel. A defendant may also be provided with legal assistance at the direction of the court.

Targeted consultation was undertaken on a draft version of this bill and I thank those who made comments in response to the draft.

The provisions in this bill provide more options for dealing with family violence offences and for perpetrators to be held to account. This bill also clarifies the operation of section 125A of the Criminal Code in response to recommendations contained in the *Criminal justice report* of the Royal Commission into Institutional Responses to Child Sexual Abuse and enhances provisions to protect vulnerable witnesses during court proceedings.

Family violence is a serious issue affecting too many Tasmanians and this Government is committed to improving the protection and safety of victims and children of family violence and the way our justice system deals with family violence perpetrators.

I commend the bill to the House.

Debate adjourned.

ADJOURNMENT

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

That at its rising the Council adjourn until 11 a.m. Thursday 1 November 2018.

The Council adjourned at 5.30 p.m.