

PARLIAMENT OF TASMANIA
DEBATES OF THE LEGISLATIVE COUNCIL

DAILY HANSARD

Wednesday 12 August 2026

Preliminary Transcript

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Wednesday 12 August 2026

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

QUESTIONS ON NOTICE - ANSWERS

No. 49 - Government Response to the Future of Local Government Review's Final Report

Ms FORREST question to MINISTER for LOCAL GOVERNMENT, Mr VINCENT

[11.09 a.m.]

The Future of Local Government Review's Final Report (October 2023) recommended the Government examine alternative revenue from major commercial operations (Recommendation 17) and undertake a Review of Rating (Recommendation 23), partly in response to council concerns - including Central Highlands Council's own submission to the Review - about rate exemptions on assets such as wind farms, which the Council argued required a structural, equity-based fix rather than a project-by-project approach.

- (1) Can the Minister for Local Government confirm the Government's formal response to Recommendations 17 and 23, and what work, if any, has been undertaken on each since the Government's response was released in May 2024;
 - (a) Was a Payment in Lieu of Rates scheme (PiLoR), of the kind operating in Victoria, considered as the mechanism for implementing either recommendation;
 - (b) If so, why was it not adopted; and
 - (c) If not, why not?
- (2) Was Treasury asked to model the revenue implications of a PiLoR-style scheme for Tasmanian councils as part of this work?
- (3) Why did the Government direct or permit the Valuer-General to apply a bespoke land valuation methodology to windfarm sites, rather than progressing PiLoR?
- (4)
 - (a) Was this an administrative decision by the Office of the Valuer-General under the *Valuation of Land Act 2001*, or a policy direction from Government; and
 - (b) if it was a policy decision which Minister, if not you, approved it?
- (5)
 - (a) Can the Minister confirm whether solar farms remain unrated under the standard 'chattels' exclusion, while windfarms alone have been brought into a valuation-based rating approach; and
 - (b) if so, what is the policy rationale for treating the two technologies differently, and when will solar be addressed?

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- (6) Under the current Valuer-General approach, rates liability falls on the host landholder rather than the plant operator:
- (a) Has the Government sought assurance, contractual or otherwise, that lease arrangements between operators and landholders ensure rates costs are passed through to the operator; and
 - (b) At the Ark Energy St Patricks Plains site, where the project spans five separate landholdings, can the Minister confirm whether this results in five separate valuations and five separate billing processes, and what additional administrative cost this places on the relevant council compared with a single PiLoR assessment?
- (7) (a) How does the yield to local government under the Valuer-General's site-by-site valuation approach compare with what the same site would generate under the Victorian style PiLoR formula (currently a \$67,270 base plus \$1,515 per MW); and
- (b) Has this comparison been done, and will the Minister release it?
- (8) PiLoR is price-indexed annually and tracks consistent megawatt output for the life of the asset, whereas land valuations are periodic and may decline as a generation asset ages.
- (a) Does the Government accept that the current approach risks declining real rate revenue to host councils over time, in contrast to PiLoR; and
 - (b) what plan, if any, does the Government have to review or replace the current valuation approach to address this risk?
- (9) Given that most wind farm operators in Tasmania already operate PiLoR-compliant assets in other states, what assessment has the Government made of investor and operator views on Tasmania's divergent approach, and the case for national consistency?
- (10) (a) Will the Government consider introducing legislation to adopt a PiLoR scheme for renewable energy generation in Tasmania; and
- (b) if not, why not?

ANSWER

I have an answer here for the honourable member for Murchison to question No. 49 in relation to recommendations 17 and 23 of the Future of Local Government report.

The government released its response to the Future of Local Government Review in November 24. In its response, the government indicated support, in full, in part or in principle, for 36 of the 37 recommendations. Given the breadth and complexity of proposed reforms, the government also laid out a staged implementation program.

With respect to recommendation 17, the government partially supported the recommendation, noting it would 'consult on potential frameworks to help benefit councils that assist major operations in their local government areas' and indicated this would be included as part of the Local Government Priority Reform Program 2024-26, currently underway.

With regard to recommendation 23, the government indicated its support for a rating review as a medium-level priority to be undertaken post-2026. It is noted that the Future of Local Government report recommended that such a review only be undertaken once other revenue reform recommendations had been considered and implemented.

From a local government portfolio prospect, initial reform effort in response to the Future of Local Government Review has focused on priority governance and accountability measures - including those recently considered and passed by the Legislative Council via the Local Government Amendment (Targeted Reform) Bill 2026. Work on longer-term recommendations will continue as part of the government's staged implementation approach.

The government is aware there is interest in and advocacy for the introduction of a Payment in Lieu of Rates (PiLoR) scheme - just so everybody's aware of that - in Tasmania for within the local government sector. Currently, the government does not have a position on the introduction of such a scheme in the state. This is something that will need further consideration by Cabinet, in particular discussions between myself, the minister for Energy and the Treasurer, as it has broad implications across a number of portfolios.

While I understand some early discussions have occurred between officials in the Office of Local Government and the Department of State Growth, which is now Building Tasmania, I can advise no specific or dedicated work program has been progressed in relation to a potential PiLoR scheme at this stage. As such, no detailed technical investigations have occurred of the type indicated in the honourable member's question, nor any specific engagement or consultation with industry or the sector. However, both things would need to be undertaken to support any serious consideration about the induction of a PiLoR scheme in the state.

Questions about the role and work of the Office of the Valuer-General have been most appropriately addressed to the Minister of Parks and Heritage as the relevant portfolio minister.

However, I am aware that the Office of the Valuer-General recently introduced changes to the Valuation Property Classification Codes (VPCCs), which comprise an internal categorisation tool that can assist in identifying different property types during valuation, a tool that councils can choose to adopt to support their rating classification. This includes a number of electricity-generation, storage and transmission-specific categories, and I understand therefore that the new VPCCs do not apply exclusively to wind farms but they do capture solar and battery installations.

I'm advised that a number of local councils in the state are pursuing the VPCC option to allow for differential rates to be applied to wind farms and other electricity infrastructure, (generation, transmission or storage). Under the *Valuation of Land Act 2001*, fresh valuations are undertaken by the Valuer-General on a six-year cycle. Each year, councils set their rates budget for the next financial year and adopt a rates resolution to apportion across properties in the municipality. Importantly, councils have the discretion to utilise either the land value, capital value, assessed annual value supplied by the Office of the Valuer-General, or average area rates.

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The discretion afforded to councils under the *Local Government Act 1993* allows them to vary the general rate based on factors such as use, locality or other factors. This can include different applications across uses such as residential, commercial, primary production and industrial. Therefore, it is a matter for the relevant council to determine the amount of rates each property owner is liable for.

I understand that the Office of the Valuer-General undertook this work as a process to support its own internal systems and on its own initiative, and I can confirm that I had no role in directing it to be completed.

The introduction of VPCCs is not a substitute for the Payment in Lieu of Rates scheme, nor does it preclude the potential future pursuit or implementation of such a scheme by the government.

Contractual agreements between the landowners and leaseholders involved in renewable energy development, including with respect to the sharing or pass-through of any rates liability, are matters for the parties to those contracts. Similarly, questions about how councils administratively can collect rates from landowners in their municipalities are best directed to the relevant council.

Finally, again, the extent of which the Payment in Lieu of Rates scheme may have advantages to council in this regard would form part of a broader merit assessment for such a scheme, but I can confirm no such assessments have been undertaken at this time. Thank you very much.

MESSAGE FROM THE GOVERNOR

Senate Vacancy - Resignation of Senator Wendy Askew

[11.16 a.m.]

Mr PRESIDENT - Honourable members, I have a communication from Government House, sent on 11 August 2026:

Dear President,

I enclose a copy of the letter that I have received from the President of the Senate notifying me that, pursuant to the provisions of section 21 of the Commonwealth of Australia Constitution, a vacancy has occurred on 10 August 2026 in the representation of the State of Tasmania as a result of the resignation of Senator Wendy Askew.

I have also written to the Premier and the Speaker of the House of Assembly to advise them of the vacancy.

Yours sincerely

The Honourable Caroline Wells
Governor

UNCORRECTED PROOF

The referred letter is from the Australian Senate, from the President of the Senate, Sue Lines:

Your Excellency,

Pursuant to section 21 of the Commonwealth of Australia Constitution, I notify Your Excellency there is a vacancy in the representation of the State of Tasmania through the resignation of Senator Wendy Askew on Monday 10 August 2026.

Yours sincerely

Senator Sue Lines
President of the Senate

MOTION

Joint Sitting of Both Houses

[11.18 a.m.]

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council)(by leave) - Mr President, I move -

That so much of Standing Order 329 be suspended to allow for a Joint Sitting of the Houses to be arranged sooner than 7 days after receipt of the Governor's Message.

Motion agreed to.

Mr President, I move -

That on Thursday 13 August 2026 at 10.00 o'clock a.m. the Legislative Council meet the House of Assembly in the House of Assembly Chamber for the purpose of sitting and voting together to choose a person to hold the place in the Senate of the Parliament of the Commonwealth of Australia rendered vacant by the resignation of Senator Wendy Askew.

Motion agreed to.

Mr President, I move -

That the Joint Sitting Rules as distributed to Members in the House be adopted as the Rules for the Joint Sitting of both Houses.

Motion agreed to.

Mr President, I move -

That a Message be transmitted to the House of Assembly requesting its concurrence therein and that such Message contain the proposed Rules for the Joint Sitting of both Houses.

Motion agreed to.

MOTION

Government Administration Committees A and B - Adjustment as a Consequence of Ministerial Portfolio Changes

[11.19 a.m.]

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

That the following revised list of ministerial portfolios be allocated to the Legislative Council Government Administration Committees A and B as a result of the ministerial portfolio changes, and further that -

Committee A:

The Treasurer; Minister for Macquarie Point Urban Renewal; the Minister for Health, Mental Health and Wellbeing; the Minister for Ageing; the Minister for Aboriginal Affairs; the Minister for Energy and Renewables; the Minister for Parks and Heritage; the Minister for Sport; the Minister for Arts; the Minister for Community and Multicultural Affairs; the Minister for Racing; the Minister for Tourism, Hospitality and Events; the Minister for Infrastructure and Transport; the Minister for Local Government; and the Minister for Housing and Planning.

Committee B:

The Premier; the Deputy Premier; the Attorney-General; the Minister for Justice, Corrections and Rehabilitation; the Minister for Small Business, Trade and Consumer Affairs; the Minister for Environment and Climate Change; the Minister for Police, Fire and Emergency Management; the Minister for Business, Industry and Resources; the Minister for Skills and Jobs; the Minister for Innovation, Science and the Digital Economy; the Minister for Education; the Minister for Children and Youth; the Minister for Disability Services; the Minister for Women and the Prevention of Family and Sexual Violence; the Minister for Primary Industries and Water; and the Minister for Veterans' Affairs.

I move that -

Ms Forrest, Ms Glade-Wright, Ms Lovell, Ms O'Connor, and Ms Thomas be of Committee A

and

Ms Armitage, Mr Edmunds, Mr Gaffney, Mr Hiscutt, and Ms Webb be of Committee B.

Motion agreed to.

STATEMENT BY PRESIDENT

Welcome to New Legislative Council Staff

[11.21 a.m.]

Mr PRESIDENT - Honourable members, before proceeding on to our legislation this morning, it is with great pleasure that I welcome Susie Hewlett and Danielle Beer to the staff of the Legislative Council. They're with us in the Chamber today. Susie joins us as the member for Pembroke's research officer, and Danielle, in the second row, is joining the honourable member for Montgomery in his electorate office. I know all members of the Council deeply value the work that our electorate staff do for us in supporting our work as elected members, and I'm sure that Susie and Danielle will continue these important traditions. I know I speak on behalf of all members when I say that we warmly welcome Susie and Danielle to the Legislative Council.

Members - Hear, hear.

RESIDENTIAL PARKS BILL 2026 (No. 2)

In Committee

Continued from Thursday 25 June 2026 (page 66).

Clause 69 -

Termination of residential park agreements

Madam CHAIR - While everyone is getting themselves set, I'll just remind members that we are up to clause 69. Two members have spoken on this: one speak for the member for Launceston and one speak for the member for Montgomery. One each, just so everyone knows where everyone's at. Thank you.

Ms RATTRAY - Thank you, Madam Chair. In regard to this particular clause, members may recall that questions were posed to the Committee and to the Leader, and there was a decision to provide a more fulsome answer. That has been provided by way of a letter to members from the Deputy Premier responsible for the bill. I'm happy to table that letter if that would suffice for members.

Ms Armitage - Should you read it out, do you think?

Ms RATTRAY - I could certainly read it out if -

Ms Armitage - It's only going to be a couple of minutes. It would make it clearer.

Ms RATTRAY - That's fine, okay. The letter was - and this is to the Leader for Government Business in the Legislative Council:

Ms Rattray,

Thank you for progressing the Residential Parks Bill 2026 in the Legislative Council. The bill is an important priority for the Tasmanian government and I look forward to its protections for residents and park operators being implemented.

During the Committee stage, Ms Rosemary Armitage MLC and Mr Casey Hiscutt MLC raised concerns about how the bill, once commenced, would interact with the *Land Use Planning and Approvals Act 1993*, as well as broader planning laws and regulatory requirements. I am pleased to provide the following additional information in response to those concerns.

Interaction with LUPAA

Caravan and holiday parks operate across Tasmania on land subject to a range of zonings including rural, landscape conservation, recreation, commercial and tourism, and particular purpose zones established through local planning provisions.

Under some planning schemes, these parks are intended primarily to provide visitor accommodation rather than accommodation as a person's principal place of residence. As a result, some parks may be operating in circumstances that are not clearly contemplated by the applicable planning scheme, or where the application of existing planning controls is uncertain.

Our government does not consider that the introduction of these important broader protections for residents should be delayed while planning and zoning issues affecting individual parks are resolved. Therefore, the bill does not itself rezone land or automatically override existing planning controls. Instead, Schedule 1 contains a transitional regulation-making power for up to five years after the legislation commences. Regulations may exclude the operation of specified provisions of the *Land Use Planning and Approvals Act 1993* or the Tasmanian Planning Scheme in relation to prescribed parks or sites. Regulations affecting planning matters may only be made after receiving advice from Building Tasmania as the department responsible for administering the *Land Use Planning and Approvals Act 1993*.

The government included this transitional power specifically to enable action to be taken in circumstances such as those at Beauty Point. Subject to the

required advice and the process prescribed by the bill, regulations can exclude the relevant planning controls so that the bill's other important protections can operate while any necessary planning scheme amendment, rezoning or other longer-term solution is progressed.

South Australia, whose legislation informed the development of this bill, adopted a two-stage approach. The *Residential Parks Act 2007* (SA) established protections for residents without seeking to resolve the associated complex planning issues. Those issues were addressed separately over subsequent years through amendments to the planning framework that recognised the longstanding practical circumstances faced by park owners, long-term residents and local authorities.

I believe it is important to be clear that not proceeding with this bill will leave park residents in a precarious position without necessary rights and protections.

Similarly, while different drafting approaches to this issue were considered in the development of this bill, the inclusion of making substantive changes to planning laws and controls in this bill would result in lengthy delays in legislating these important protections.

Insurance for residents

The government acknowledges that appropriate and affordable insurance is a significant challenge for many Tasmanians. As the honourable Mike Gaffney MLC noted during his contribution on the bill, some residents may already be unable to obtain suitable insurance for their dwellings. Where appropriate insurance is unavailable or unaffordable, imposing a statutory requirement for residents to hold such insurance would prevent them from entering into or continuing a residential park agreement.

It is also likely that some long-term residents do not currently hold insurance for their dwellings. Making insurance mandatory could therefore place those residents at risk of being required to leave their park. This would undermine the protective purpose of the legislation and could expose vulnerable Tasmanians to displacement or homelessness.

Thank you again for your continued support for the Residential Parks Bill 2026. I trust this information will assist you and other members of the Legislative Council in your further consideration of the bill.

Yours sincerely,

Hon. Guy Barnett MP, Deputy Premier, Minister for Small Business, Trade and Consumer Affairs.

Recognition of Visitors

Madam CHAIR - Just before I call the member for Launceston, I will welcome the students in our Chamber, in the back and the President's reserve, the year 6 students from East Launceston Primary School. I'm not sure whose electorate, maybe the member for Launceston's, who's going to speak in a moment when I give her the call. But we're actually in the Committee stage of a bill that's dealing with people who live in residential parks, like caravan parks and that sort of thing, so that they can have the legal protections that anyone else renting in another property might have. We're partway through it, so it might not make a lot of sense right now, but that's what the legislation's about. This is the Committee stage, where we go through it clause by clause or part by part. Welcome, I hope you enjoy your time in parliament, and I'm sure all members will welcome you.

Members - Hear, hear.

Ms ARMITAGE - Chair, I have sought advice on the clarification from the Leader, and I do have a question. The view remains that the underlying planning and zoning matters are complex and ideally should be resolved through the planning system.

The proposed transitional approach appears designed to allow these protections to commence while longer-term planning solutions are pursued. But there remains potential for tension between planning controls and residential occupation in some parks. While the government's new approach provides greater clarity, it does not entirely remove the risk that future planning, rezoning or regulatory processes may still be required on a site-by-site basis. Will the government put on the record that it will, after the terms that are in the letter, actually make progress with regards to sorting out these LUPAA issues?

It's all very well to say it goes for five years, but I think we need something on the record to say that the government actually will look to rectify it rather than we get a lot on the phone and someone goes to TASCAT that there are some real issues for people in the caravan park. So, I would like something on the record to say they will do it.

Ms RATTRAY - Seeking advice, Madam Chair.

Recognition of Visitors

[11.35 a.m.]

CHAIR - Just while we're waiting for the Leader to provide some further advice, I'll just welcome the second group - or third group, perhaps, I'm not sure, we might have had one earlier - grade 6 students from East Launceston Primary School in the member for Launceston's electorate, sitting over here on my left. We're in the Committee stage of a bill looking at the various parts and pieces of legislation that we dealt with a few weeks ago, and looking at all the provisions in it to enable people living in caravan parks, in cabins and caravans that are fixed in site, who permanently reside in them, to have the same protections as someone who may be renting a property elsewhere. That's what we're looking at. There's some questions being asked about how parts of this work and that's what the Leader is getting some information on now. We welcome you to Chamber and hope you have a lovely time in parliament and notice the difference between the two Houses.

Members - Hear, hear.

Ms RATTRAY - Thank you, Madam Chair. In response to the honourable member's question around a commitment -

Ms Armitage - A long-term solution.

Ms RATTRAY - Yes. Certainly the government will resolve these matters, and on advice from Building Tasmania and on a park-by-park basis. Once the bill is implemented, then that information will be gathered and that will give a greater understanding of the situation because of the data-gathering. That'll be available, as I've said, once the commencement of the bill - I trust that that gives the honourable member some confidence in what will happen going forward.

Ms Armitage - I will follow up the proclamation and the bill.

Mr HISCUTT - Thank you, Chair. There are two timelines here that I'm looking for commitments on, because there's the timeline to write the regulations and then there's also the timeline to fix the acts that the regulations apply to after that. So, if we could get some more clarity. It's fine to say, once we get that information, what is the expected timeline that those regulations that will affect the act get changed, and then also what is the expected timeline? As soon as possible, we hope.

I know we don't have to hold that to you if that's fine, but in six months we hope to have the regulations in place, because the short-term impact of not having those regulations in place is that the residential agreement is made, they are now residents; a neighbour across the street from one of these residential parks complains, if we haven't put these regulations in place yet, the council will still have to act under the current LUPAA planning laws, and they'll have to say, well, residents can't be in zoned recreational land, they can't be zoned in tourism land, we've got no option other than to ask them to leave. We just need to know that timeline on when these regulations will be written and then also the timeline on when the real problem will be fixed, before five years' time.

Ms RATTRAY - Thank you, Madam Chair, and I acknowledge the questions that followed on from your previous questions when this piece of legislation stalled, if you like. There is a six-month timeframe for people in parks to register, so that will build the information that will be available, but there's also a commitment at this table by the department that they will work on the draft after this legislation passes, should it pass today. So, there will be a six-month timeframe as well for draft regulations to be available. So, you've got two things working together there: six months for people to register their property, and then the draft regulations will also be available in that timeframe. That will obviously build up that database and understanding of what we actually have in Tasmanian parks.

Mr HISCUTT - Thank you, Madam Chair. I guess the second part of the question was: when will we commence the action of actually fixing up those acts that need to be fixed in five years' time? I just don't want to have that commitment in four-and-a-half years' time we'll start looking at something that needs to be fixed within six months, that needs consultation; do we have a commitment within three years' time we'll start looking at those changes that need to be made for this to fit within LUPAA and the *Building Act*, or when do you expect to start working on the actual fix required for this bill to take effect, not the temporary fix?

Ms RATTRAY - Again, there is a commitment that the work will commence as soon as this bill receives the support of this Chamber. But how long that will take, within that five-year period, that's a difficult question to answer, but there's a firm commitment that it will take place.

Clause 69 agreed to.

Clauses 70 and 71 agreed to.

Clauses 72 and 73 agreed to.

Clauses 74 and 75 agreed to.

Clause 76 -

Termination at end of fixed term

Ms LOVELL - Thank you, Madam Chair. I move the amendment in my name to -

Page 93, subclause (2), paragraph (a), after '5 years or'.

Leave out 'more'.

Insert instead 'more, regardless of whether the agreement has been transferred'.

Members, the bill currently prevents a park owner from terminating a lease or an agreement at the end of a fixed term, where the agreement is for a fixed term of five years or more, as outlined in clause 76(2)(a). The proposed amendment to clause 76(2)(a) would make that protection explicit for holders of an agreement where that agreement had been transferred previously.

This is an amendment that's been developed following consultation with stakeholders with lived experience in residential parks. I understand the policy intent is that the protection should attach to the nature of the agreement and not be lost because the agreement has passed to a new resident through a transfer mechanism. This amendment is intended to close off any sort of technical interpretation that could undermine the position of residents under those long-term agreements. The bill already recognises that park agreements are transferable and outlines that procedure in clause 18. So, this is just to ensure, where an agreement has been transferred, that the new holder of that agreement can be confident that that protection will extend to them because of the nature of the agreement.

Ms RATTRAY - Thank you, Madam Chair. Currently an agreement can be terminated at the end of a fixed-term agreement by giving the resident 60 days' notice. The exception is where a resident has an agreement of five years or more or has had cumulative agreements totalling five years or more. The proposed amendment is that where a resident who falls within this exception transfers their agreement to another resident subsequent to sale of the dwelling or similar, the new resident automatically has the benefit of not being able to have their agreement terminated at the end of the fixed term. This provides the purchaser of the dwelling - who has been the subject of long-term agreements - with the peace of mind that they will have the benefit of similar security. This is potentially key to the value of the dwelling.

UNCORRECTED PROOF

However, it is noted that it also places considerable pressure on park owners when considering an application to transfer an existing agreement. A park owner, when allowing a resident to live on the park for five years or more, will also arguably be enabling future unknown parties living on the park unless the park owner can find grounds to reasonably refuse the transfer of the agreement. Considering the provision was not consulted on, and the potentially significant impact this may have on park owners, at this stage the government cannot support this amendment.

Ms LOVELL - Thank you, Madam Chair, and thank you to the Leader for that response. I appreciate, particularly at the beginning of the response, recognising the peace of mind that this amendment would provide to those new residents.

I don't disagree with anything that you've said. I think what this comes down to is really a question for members about whether they believe that risk is greater than the protection or the peace of mind that it would otherwise provide to those new leaseholders. This is one where there are valid opinions on both sides and potential risk is absolutely there. I just ask members to consider whether they think that risk is outweighed by the protection or the peace of mind it would give to those new residents on transfer.

Ms WEBB - Thank you, Madam Chair. Just in the interest of stating a view on the record on the amendment, it is an interesting one to weigh those things up, and I take the point made by the member for Rumney on turning our mind to that balance. I would be inclined to think of it from the perspective of vulnerability in terms of tenants in these situations often. I will probably be inclined to support the amendment on the basis of weighing that slightly higher than the potential risk there for landlords, acknowledging that there is one also. I am inclined to support the amendment.

Madam CHAIR (Ms Forrest) - The question is that clause 76 be amended.

The Committee divided -

AYES 8

Ms Armitage
Mr Edmunds
Ms Glade-Wright
Mr Hiscutt
Ms Lovell (Teller)
Ms O'Connor
Ms Thomas
Ms Webb

NOES 6

Mr Duigan
Ms Forrest
Mr Gaffney
Ms Palmer
Ms Rattray (Teller)
Mr Vincent

Amendment agreed to.

Clause 76, as amended, agreed to.

Clauses 77 and 78 agreed to.

Clauses 79 and 80 agreed to.

Clauses 81 and 82 agreed to.

Clauses 83 and 84 agreed to.

Clauses 85 and 86 agreed to.

Clause 87 -

Action to deal with abandoned property other than personal documents

Mr GAFFNEY - Madam Chair, I move, in my name, the following amendment -

Page 102, paragraph (b), after 'is less than'.

Leave out 'a fair estimate of the cost of removal, storage and sale of the property.'.

Insert instead 'the amount prescribed in the regulations for the purpose of this section.'

The use of the term 'fair estimate of the costs of disposal', I believe, is ambiguous and predicated on the process that surrounds it and very much depends on the category of the abandoned property. The amendment seeks to give an unequivocal baseline value to consider when making that decision, one that will be simpler and more straightforward for a park owner and resident to evaluate when considering abandoned property. It can also be easily updated to reflect current values. If the amendment is agreed to, I understand the department will continue to examine appropriate benchmarks to inform the development of a prescribed threshold for valuable property, and this will help inform the regulations instead of coming back to the act. I move the amendment in my name.

Ms RATTRAY - Thank you, Madam Chair. Dealing with abandoned goods of varying size, intrinsic and extrinsic value would be a regular and no doubt challenging part of managing a residential park. Dealing with abandoned property balances the interests of the owner of the property, who may have left the property for a range of reasons and may intend to reclaim it, with those of the park owners, such as wishing to re-let the site and remove waste.

It's acknowledged the bill's provisions in relation to abandoned property are complex and this reflects the fact that as the park has been the principal residence of the resident prior to the abandonment, there may be a range of different types of property that may be abandoned; this may be the dwelling itself, personal documents, valuable items such as tools, equipment, electrical equipment, bicycles, et cetera, as well as perishable items and waste. Under the bill, there are different processes depending on the nature of the property. For example, abandoned food and perishable items can be dealt with arbitrarily, whereas valuable property may require a public notice in the newspaper.

The government acknowledges Mr Gaffney's concerns with the requirement and, in cases of certain valuable property, that a public notice be published and that that item, if not claimed, be sold by public auction. This could impose a burdensome process in cases of relatively low-value property, and currently the bill requires a public notice and a public auction in situations where the estimated value of the property is greater than the fair estimate of the cost of removal, storage and sale of the property.

It's noted that it may be a particularly clear threshold, with the cost of storage and the sale price not necessarily being available at the time of the decision by the park owner that needs to be made. The government recognises that providing a clearer threshold could assist with this process. The government therefore supports the proposed amendment to prescribe a value above which abandoned goods are valuable abandoned goods for the purpose of the act. This will enable a value to be prescribed and amended as needed, and it will also ensure the amount is reviewed on at least a 10-yearly basis as part of the remaking of the regulations. Regulations relating to the residential parks will be developed as a priority - going back to the member for Montgomery's question - following the passage of this bill and will be subject to public consultation. The short answer is: the government supports your amendment, honourable member.

Amendment agreed to.

Clause 87, as amended, agreed to.

Clause 88 agreed to.

Clause 89 -

Actions to deal with valuable abandoned property

Mr GAFFNEY - Madam Chair, I move an amendment in my name -

Page 105, subclause (4), after 'have the property sold by public'.

Leave out 'auction'.

Insert instead 'auction, within the meaning of the Disposal of Uncollected Goods Act 2020, or by other prescribed means'.

The proposed amendment is seeking to create a degree of flexibility in the definition of public auction to be the same as in the *Disposal of Uncollected Goods Act*. It's useful as this definition includes the option of an online auction. Secondly, the provisions now also include 'or by any other prescribed means', thus providing the flexibility to identify other appropriate ways to dispose of the property by sale for the benefit of both the resident and the park owner.

Ms RATTRAY - Thank you, Madam Chair. The honourable member has very adequately described the purpose of the amendment and the government is supportive.

Amendment agreed to.

Clause 89, as amended, agreed to.

Madam CHAIR - Can I just say, from this side of the Table, those time limits are in place. We are trying to manage that as well. When we have an amendment that's passed, there's work the Clerks need to do, so we may just need to slow things down a bit, okay? Just to give us a chance to make sure that we're complying with the new sessional order.

Clause 90 agreed to.

Clause 91 -
Park rules

Mr HISCUTT - Thank you, Madam Chair. My question is regard to the park rules. It says that rules may only be made about the following items, and one of those is the keeping of pets. I just wanted to recognise the work of the government on the pets in rentals bill that passed this House, I think earlier this year, because I mean we've discussed how this will leave residents. They'll be treated as residents in relation to LUPAA, how that'll be affected, and yet the *Residential Tenancy Act* now includes pets as cannot be refused; and yet this act seems to have the provision that rules can be made around pets. I just want to know how those two acts will interact with each other in relation to that particular aspect.

Ms RATTRAY - Thank you, Madam Chair. The pets in rentals bill related only to residential tenancies under that act. This bill deals with residents on quite different properties, often with significant shared spaces and with other limitations such as the park. I mean, there's often a lack of fencing around those environments that I'm aware of. Some residential parks may accommodate pets and hence the ability to exclude it in the rules, but others may not. So, it's really up to individual parks to decide. I mean they might allow a small pet, but a large animal running around may not be suitable. So really, it is quite different to the *Residential Tenancy Act*.

Clause 91 agreed to.

Clauses 92 and 93 agreed to.

Clause 94 -
Application of

Ms RATTRAY - Thanks, Madam Chair. I move the following amendment -

Page 113, after 'the commencement of this'.

Leave out 'Act'.

Insert instead 'section'.

Madam Chair, by way of explanation to honourable members, this amendment relates to the enactment of the bill, so that certain parts can be enacted before other parts. That's what that relates to.

Amendment agreed to.

Clause 94, as amended, agreed to.

Clauses 95 and 96 agreed to.

Clauses 97 and 98 agreed to.

Clauses 99 and 100 agreed to.

Clauses 101 and 102 agreed to.

Clauses 103 to 105 agreed to.

Clauses 106 to 108 agreed to.

Clauses 109 to 111 agreed to.

Clauses 112 and 113 agreed to.

Clauses 114 and 115 agreed to.

Clauses 116 and 117 agreed to.

Clauses 118 and 119 agreed to.

CHAIR - Before we go on to the Schedules, we need to address an amendment to insert a new clause that the member for Rumney has. We'll do that before we move to schedules.

New clause (A) to follow clause 19.

A. Park owner to offer agreement in certain circumstances

- (1) It is a term of a residential park agreement that a park owner must offer a residential park agreement, in accordance with subsection (2), to a person if -
 - (a) the person (the *new resident*) has purchased a dwelling that is located on a site of the residential park; and
 - (b) the previous owner of the dwelling was an existing resident, in respect of that site, under a residential park agreement that is in force (the *existing residential park agreement*); and
 - (c) the existing residential park agreement is not being transferred to the new resident.
- (2) An agreement to be offered to a new resident under subsection (1) must be offered -
 - (c) for the same term as, or for a longer term than, the existing residential park agreement for the site; and
 - (d) on the substantially same terms as the existing residential park agreement for the site.

Ms LOVELL - Thank you, Madam Chair. I move -

That new clause A be now read the second time.

Members, the reason for this new clause amendment is to require a park owner to offer a residential park agreement to a purchaser of a dwelling where the previous owner was an existing resident under an agreement that would otherwise remain in force but that is not being transferred to the new resident. It's accepting that this would probably be a fairly rare circumstance because there is a provision for agreements to be transferred; where that hasn't happened, the new agreement would need to be offered under this amendment, and it would need to be offered for the same term or a longer term than the existing agreement, and on substantially the same terms.

This amendment is aimed at addressing a practical gap. The bill currently provides for transfer of agreements and protects against unreasonable refusal of transfer, also allowing for variation of terms as part of transfer agreements. The new clause simply helps ensure that where a transfer does not occur, the incoming purchaser or the new resident is not left exposed to a materially weaker position simply because a new agreement would need to be issued. In effect, this amendment or new clause would support continuity, fairness and confidence in the market for dwellings located in residential parks.

Ms RATTRAY - Seeking some advice, Madam Chair.

In response to the honourable member's amendment, it remains the government's view that the transferral of the agreement ensures the agreement of the new resident is on the terms of the existing resident. It ensures the buyer is aware of the detail of what they are buying into and the government does not support the proposed amendment as drafted. There appears to be a risk that where an agreement is deliberately not transferred, such as where the owner has objected to the transferral on the basis of the character or circumstances of the proposed new resident, the park owner would be obligated to enter into a new agreement with the proposed new resident regardless.

Mr GAFFNEY - Madam Chair, I appreciate the amendment from the honourable member, but I think this adds a layer of complication to the act which is not necessary. I can see situations where this would be very concerning, so I support the government in its stance with this amendment - in not accepting this amendment.

Ms LOVELL - Madam Chair, thank you to the Leader for the response and member for Mersey as well for your comments. Just to, again, not necessarily disagree with what the Leader was saying but, again, this is one of those questions where it's about: do members want to protect the rights of those new residents where the transfer hasn't occurred or are they more comfortable with allowing park owners to be able to make that determination at the time of entering into a renewal agreement? I will put the new clause and leave that up to members.

Ms RATTRAY - Madam Chair, I believe that I may well have something further to add, so I will seek further advice.

Madam CHAIR - Just in terms of managing this, if I can: when the Leader is still on her feet she's still answering the same question. I will stop the clock while she's sitting down getting a response because she only has 10 minutes, I will just note. We're probably taking more than 10 minutes to get answers at times, but I will stop the clock. But if someone else takes the call then I will restart the clock for that member. Just to make it really clear what we're doing, trying to manage this. I will give a bit of leeway, so you don't use up your 10 minutes in the time that the answers are being provided.

Ms Armitage - Ten minutes each time, isn't it?

Madam CHAIR - That's why I'm stopping the clock, because the Leader needs to get advice. But I'm happy to give another member a call if she wants.

Ms Webb - I don't mind hearing more from the Leader before I take a call, if that's okay.

Ms RATTRAY - Madam Chair, realistically, the answer is - I'm just restating what the government has already said - that it could cause a level of complication around extending an agreement and there may be circumstances why that agreement hasn't been offered to a new person for reasons that we may not know. I believe that I support the honourable member for Mersey in his description that it could overcomplicate what could already be a complicated matter that we don't need.

Ms WEBB - Madam Chair, I apologise to the member for Rumney that I didn't get up before she took her second call because I realised you've only got one left, and you may want to respond to things that I've said.

I'm a little bit torn on this new clause for some of the reasons that the government has expressed in terms of their opposition to it. I'm inclined to the intent of it and the principles of it. The thing that concerns me a little bit is the potential that there may be particular circumstances where, as the Leader said, there's a real reason not to offer another park agreement to the new owner. It really concerns me that this is very binding then and doesn't really leave any leeway.

You might be able to answer one question just to make sure there's real clarity around it. In part 5 where the agreement is to be offered to the new resident under subsection (1) must be offered and (a) says 'for the same term as, or for a longer term'. I am assuming that means not the remaining time on the term but the total time that was the time of the existing agreement. Potentially, even if it was just for the remaining time on it, I might have been more inclined. I'm sorry I didn't turn my attention to this earlier and discuss it prior to being on the Floor. Obviously, I haven't quite kept up as much as I should have with proper attention to this proposal. I'm still quite torn about it. This amendment is a hard one, but I thank the member for giving good, clear thought to how best to protect particularly vulnerable tenants or vulnerable owners in these situations in these agreements. I'm going to keep thinking right up to the last second on this.

Ms O'CONNOR - Thank you, Madam Chair. In the other place, when a very similar amendment was put up, my colleague Cecily Rosol, in relation to this proposal, expressed the concerns that we had then and still have, in that requiring a park owner to offer an agreement on the same length or longer, a timeframe actually reduces the new resident's choice. What if they don't want a five-year or longer term? Shouldn't they be able to negotiate the terms of the agreement the same way any person would when they're entering into a contract? To move to a place and be told you can either live here for the same time period or longer but not shorter, regardless of what your intentions are, we feel is quite limiting to the individual in these circumstances. Like the honourable member for Nelson, we absolutely respect the intention of these amendments and your consistency throughout with your amendments, honourable member for Rumney, in advocating for tenants. But we just want to express a concern we think it's quite limiting, and we are not inclined to support the amendment.

Ms LOVELL - Thank you, Madam Chair, and thank you to members for further comments. I will just respond quickly to the member for Hobart because I think that one's a little quicker. I appreciate the concern that's been raised there. My understanding is agreements can still be terminated by agreement as provided for in the bill. I think that that would still allow the new resident to terminate an agreement if they did come across circumstances where they no longer wanted to live in the park.

Just going to the comments from the member for Nelson, this is a new piece of legislation. We're all trying to get the best outcome for people in this situation, and we know this has been an ongoing matter for a long time that people have been lobbying with. These amendments have come from consultation with residents of residential parks who have been impacted, but I just want to put it on the record that I completely understand that a lot of this is untested, and I think we're all trying to achieve the same things. It doesn't mean we can't come back and fix things later. So, I'm not saying you should support it because we can come back and fix it. What I'm saying is I understand your position and I'm very comfortable with that. If the amendment is not supported or the new clause is not supported and it becomes evident later that this is an issue that needs to be addressed, we can always come back and amend legislation further. I just don't want people to feel like I'm going to be dying in a ditch over this or upset with anyone. We're trying to get the best outcome. I know there are competing interests around this bill and it's a new piece of legislation that everyone is still getting their heads around. I just wanted to respond to your comments and thank you for raising that in that way. I will put in the new clause and we will go from there.

New Clause A negatived.

Madam CHAIR - Now, just in terms of how we're dealing with Schedule 1, we've got three amendments for Schedule 1. Just so the relevant members can be ready to go, the first one in order will be the Leader's amendment on page 139. The second one will be the member for Rumney's amendment, starting on page 139 too, and then the third amendment is another amendment from the Leader. The first one is page 139 clause 1 from the Leader. The member from Rumney's is page 131 after clause 2, and then the third amendment we'll put to the House is page 139 clause 3, so that we do them in order of where they appear in the field. So, if that's clear.

Schedule 1 - Transitional Provisions

Ms GLADE-WRIGHT - Thank you, Madam Chair. If a residential park does not have planning approval for residential use, or if a dwelling does not have the occupancy permit required under the *Building Act*, residents do not have a lawful right to occupy the site. Given this bill creates tenancy-style protections without granting planning or building approval, I just want to confirm: can regulations themselves authorise occupancy?

Ms RATTRAY - Taking advice on the clock.

Madam CHAIR - I'll stop the clock now that the Leader has sat down again while we wait for the answer.

Ms RATTRAY - Madam Chair, in response to the honourable member's question: the transitional regulations will ensure action cannot be taken against an existing resident during

the operation of that transitional regulation, so they can't take any action while that's being undertaken.

Ms GLADE-WRIGHT - I think - sorry, just to clarify -

Madam CHAIR - Can I just - for the honourable member for Huon's benefit - no, you stand, you're right; but you only have three calls, and so if you've got other questions on the schedule, you might need to wrap them in together.

Ms GLADE-WRIGHT - That's okay, I understand. So, sorry, my question was more about the regulations themselves: can regulations override LUPAA and the *Building Act*? Can regulations actually do that - I'm not talking about transition - like, once they've been written?

Ms RATTRAY - The regulations can temporarily suspend the operation of those sections of LUPAA and the *Building Act* in accordance with this bill. So, does that make sense to the honourable member?

Ms GLADE-WRIGHT - The schedule says that regulations can only be made on the advice of the Director of Building Control and the department administering LUPAA. If that advice is that the bill remains inconsistent with LUPAA and the *Building Act*, what does the government intend to do to resolve that inconsistency?

Ms RATTRAY - Taking advice, Madam Chair. The advice will be in relation to the specific dwelling, or residential park, depending on the scope, and the regulation will not be made without the relevant officer being supportive in their advice.

Mr HISCUTT - For clarification, the question is: what if the advice is not supportive? I believe that was the question intentionally posed. If the advice is not supportive, what is the action the government may take if it then is in opposition to the *Land Use Planning and Approvals Act 1993*?

Ms RATTRAY - Again, to clarify: the regulation will not be made without the relevant officer being supportive. It won't be made. If it's not supportive, it won't be made.

Mr Hiscutt - So that will be against the *Land Use Planning and Approvals Act 1993*.

Madam CHAIR - I might call on the Leader to stand to move her amendment.

Ms RATTRAY - I move -

Schedule 1, first amendment, page 139, clause 3, *after* 'day on which this'.

Leave out 'Act'.

Insert instead 'clause'.

Madam CHAIR - Actually, you are on the wrong one, Leader, it is the other one, Schedule 1, page 139, clause 1, after subclause (2). It's on a separate sheet.

Ms RATTRAY - I move -

First Amendment

Page 139, clause 1, after subclause (2).

Insert the following subclause.

- (3) If, on the commencement of this Act, a residential park agreement is in force in respect of a site (the '**existing agreement**') that does not comply with the requirements of section 14 -
 - (e) the relevant park owner is to prepare a residential park agreement in respect of that site (the '**new agreement**') that complies with the requirements of section 14, within 6 months after the commencement of this Act; and
 - (f) the terms and conditions of the new agreement are to be consistent with the terms and conditions of the existing agreement, except where -
 - (i) the terms and conditions are inconsistent with the requirements of section 14 and this Act; or
 - (ii) the park owner and resident agree to terms and conditions that differ from the existing agreement.

Madam CHAIR - Do you wish to speak to the amendment, Leader?

Ms RATTRAY - I would like to speak to the amendment, Madam Chair. I just seek the supportive advice.

Madam CHAIR - I will stop the clock while you seek advice.

Ms RATTRAY - In speaking to that amendment, this ensures an agreement that was not in writing at the commencement of the act, is put in writing within a reasonable timeframe. Hence the six months that was proposed in the amendment.

Amendment agreed to.

Ms LOVELL - I move the amendment in my name -

Second Amendment

Page 139, after clause 2.

Insert the following clause.

X. Park owner not to require security deposit in certain circumstances

- (1) A park owner may not require a security deposit to be paid by, or on behalf of, a resident under a residential park agreement if, on the commencement of this clause, the resident has held a right of occupancy in respect of a site in the relevant residential park for a continuous period of 5 years or more.
- (2) Subclause (1) ceases to apply in respect of a resident if -
 - (a) the resident ceases to hold a right of occupancy in respect of the relevant residential park for any reason; or
 - (b) the resident, on the resident's own volition, enters into a residential park agreement in respect of a different site at the relevant residential park.
- (3) Subclause (1) ceases to apply in respect of a residential park agreement if that agreement is transferred, after the commencement of this clause, to a new resident.

Members, this amendment is intended to essentially grandfather security deposit protections for existing long-term residents. The proposed new clause would provide that a park owner may not require a security deposit from a resident who, at commencement of the act, has already held a right of occupancy in the relevant park for a continuous period of five years or more. That protection would end if the resident leaves the park, voluntarily enters into an agreement for a different site in the same park, or if the agreement is later transferred to a new resident. This amendment is intended to create a fair transitional arrangement.

The bill, as drafted, allows a park owner to require a security deposit under a residential park agreement, capped at four-weeks' rent. Existing long-term residents may never previously have been required to pay a deposit and, we believe, should not, as a matter of fairness, face a new upfront cost simply because the legislative framework has changed. Requiring existing residents to find up to four weeks' rent at the point of commencement of the act is unrealistic for many of those residents, and for many it could create immediate financial distress and push them into debt because, typically, these residents are not sitting on spare cash reserves to be able to cover an expense like this.

At the same time, being careful to frame this amendment so that the exemption is only applicable to those existing residents, it would not stay with the agreement indefinitely and it doesn't apply to new residents after commencement. It's purely just to protect that group of residents who are current long-term residents and will continue to be long-term residents on that same agreement.

Ms RATTRAY - In response to the honourable member's amendment, this proposed amendment appears to be aimed at preventing certain residents on long-term agreements from being required to pay a security deposit on commencement when they had previously not been required to. The current bill limits the security deposit to one deposit of no more than four weeks' rent. Once the security deposit provisions commence, there will be a requirement to pay security deposits into the Rental Deposit Authority.

The bill also prohibits the charging of fees and charges outside certain very limited charges, such as a security deposit. It's a potential risk that if this amendment is included, there may be parks with agreements captured by the act who will no longer be able to charge certain one-off or ongoing fees or charges and may seek to charge a security deposit in order to manage a potential cost that would otherwise have been covered by a fee.

As residential parks are not currently regulated, I'm advised that the department is not aware of the details of security deposits or fees and charges charged in various parks, and therefore cannot comment on the practical effect of the proposed amendment.

Ms LOVELL - Thank you, Madam Chair, and thank you to the Leader for the response. I don't dispute any of the description of how the bill will operate in terms of security deposits, and that's essentially why we're moving this amendment. All this amendment is intended to do is protect current long-term residents of residential parks from having to find up to four weeks rent upfront, simply because the parliament and the government have made a decision to change the legislative framework. We feel that that's an unfair impost and would potentially create quite a bit of financial distress for many of those people, so I'd ask members to consider supporting the amendment.

Amendment agreed to.

Ms RATTRAY - Thank you, Madam Chair -

CHAIR - Just for members, there are four amendments - sorry three of them are on clause 3, and then we'll do clause 4 amendments next.

Ms RATTRAY - Yes, so I'm just seeking some advice from the clerks, and the Chair, around whether to read them all.

Third Amendment

Page 139, clause 3, after 'day on which this'.

Leave out 'Act'.

Insert instead 'clause'.

Fourth Amendment

Page 140, same clause, after 'as practicable after this'.

Leave out 'Act'.

Insert instead 'clause'.

Fifth Amendment

Same page, after clause 3.

Insert the following clause:

X. Certain amounts to be repaid to resident

- (1) If, on the day on which this clause commences, a park owner holds a security deposit, however described, in respect of a residential park agreement that is in excess of the maximum security deposit that may be held, under section 43(4)(b), the park owner must refund to the resident the amount held in excess of the maximum security deposit.
- (2) Nothing in subclause (1) prevents a park owner and resident from agreeing that an amount of a security deposit to be refunded to the resident under that subclause is to be -
 - (a) used to pay an outstanding rent that the resident has yet to pay the park owner; or
 - (b) held by the park owner as rent paid in advance by the resident.

Madam CHAIR - Can I just ask the Leader to repeat 2(a), I think you misread it.

Ms RATTRAY - '(2)(a) used to pay an outstanding rent that the resident has yet to pay the park owner; or'

Madam CHAIR - I think you said 'an', not 'any'. If you just start part (2)(a) again of X.

Ms RATTRAY - Part (2)(a), 'used to pay any outstanding rent that the resident has yet to pay the park owner; or'

Madam CHAIR - You just continue to the rest of it, just so it's all read in context, Leader.

Ms RATTRAY - Thank you.

This amendment has been included in acknowledgement -

Madam CHAIR - Sorry, I did interrupt you while you were reading part (b). So, if you could read part (b) as well, then we've got the complete amendment before the Chair.

Ms RATTRAY - Thank you, '(b) held by the park owner as rent paid in advance by the resident.'

By way of explanation, this amendment has been included in acknowledgement of the fact that there may be some residents who have already paid some form of security deposit prior to the commencement of this act and that this security deposit may be more than is allowed to be kept as a security deposit under the act. The amendment requires the refunding of any excess but does not enable a resident to choose to put any excess funds towards an outstanding rental debt or to pay as rent in advance.

I need to clarify, Madam Chair, that it does enable a resident to choose to put any excess towards an outstanding rental debt or to be in credit.

Amendment agreed to.

Ms RATTRAY - I have another amendment, Leader. I move -

Sixth Amendment

Same page, clause 4, after 'commencement of this'.

Leave out 'Act'.

Insert instead 'clause'.

Seventh Amendment

Same page, clause 5, subclause (1), definition of ***commencement*** day, after 'day on which'.

Leave out 'this Act'.

Insert instead 'section 2'.

In way of explanation, this amendment is consequential to the previous government amendment to ensure certain sections can commence on a day or days to be proclaimed.

Amendments agreed to.

Schedule 1, as amended, agreed to.

Schedule 2

Mr GAFFNEY - I move an amendment in my name -

Page 144, before '***Residential Tenancy Act 1997***'.

Insert the following:

Disposal of Uncollected Goods Act 2020

1. Section 4(3) is amended by inserting after paragraph (a) the following paragraph:
 - (ab) goods left behind at the end of a residential park agreement, within the meaning of the *Residential Parks Act 2026*; or

Madam Chair, this is a tidying-up or removal of doubt consequential provision. This adds a provision to the *Disposal of Uncollected Goods Act 2020* to clarify that that act does not apply to goods left behind after a residential park agreement. In other words, the proposed amendment clarifies that a park owner cannot choose to rely on that legislation rather than the *Residential Parks Act*. This mirrors a similar provision regarding abandoned goods under the *Residential Tenancy Act 1997* and it's helping to keep the legislation consistent. I encourage members to support it.

Ms RATTRAY - By way of explanation, Madam Chair, the government appreciates the amendment put forward by the honourable member and is supportive.

Amendment agreed to.

Schedule 2, as amended, agreed to.

Title agreed to.

Bill reported with amendments.

[12.56 p.m.]

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) - Mr President, I move -

That the bill as amended be taken into consideration tomorrow.

Motion agreed to.

MT LYELL ACID DRAINAGE REDUCTION (REPEAL) BILL 2025 (No. 53)

Second Reading

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) - Mr President, I move -

That the bill be now read a second time.

The purpose of the bill is to repeal the *Mt Lyell Acid Drainage Reduction Act 2003*. There are two key reasons for the act to be repealed.

The first and most significant reason is that its provisions conflict with provisions under the Copper Mines of Tasmania Agreement, acting as a disincentive for a new mine operator to invest in restarting production. Importantly, the government's view is that restarting production at Mt Lyell provides the most effective long-term mechanism for that treatment and management of acid drainage from the mine's workings.

The second reason is that the act has never been used and there is no foreseeable use for it. The government's policy is to review and remove legislation that is no longer required or no longer serving its intended purpose. The government's view is that environmental outcomes, regulatory effectiveness and regulatory efficiency are best served through the existing legislative and regulatory framework, rather than through a redundant act that has never been utilised.

The Mt Lyell copper mine is one of the most significant copper mines in Australian history and has been in care and maintenance since 2014 after the tragic death of three miners. Over 100 years, the Mt Lyell operation has provided jobs for generations of Tasmanians and was considered an economic mainstay of Tasmania's west coast. Mt Lyell, over its life,

produced more than 1.4 million tonnes of copper, 50 tonnes of gold and 1500 tonnes of silver, with a current value of approximately \$15 billion.

It is undeniable that in producing this wealth for Tasmania, the mine contributed to a significant and detrimental environmental legacy that has affected the Queen and King rivers extending to Macquarie Harbour. In the 1990s, Copper Mines of Tasmania, as the then operator of the Mt Lyell mine, ceased sending untreated tailings downstream and constructed a tailings dam to contain the metalliferous and acidic mine waste and significantly reduced the impact on the environment. Despite this, there remains some acidic waters entering the aquatic systems sourced from the mine area via the percolation of rain waters through the waste rock dumps and old underground workings, draining to the Queen River.

The Mt Lyell leases are 100 per cent held by Copper Mines of Tasmania -

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

SUSPENSION OF SITTING

Chamber Photograph to be Taken

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) - Mr President, I move -

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

Motion agreed to.

Sitting suspended from 2.30 p.m. to 2.45 p.m.

QUESTIONS

Bell Bay Aluminium - Request for Support

Mr EDMUNDS question to **MINISTER** for **ENERGY** and **RENEWABLES**, **Mr DUIGAN**

[2.45 p.m.]

Minister, more than 550 jobs at Bell Bay Aluminium are at risk and the company has made clear it needs a sustainable long-term future. Has your government put a formal support package to the federal government and asked it to contribute to securing Bell Bay Aluminium's future?

ANSWER

I'll begin my remarks by saying the government is a long-time supporter of our major industrial businesses here in the state, and we are more than well aware of the value that they provide to our communities, and the state more broadly, in terms of their direct employment,

their indirect employment, the supply chain effects and products that they export to benefit the state.

With that said, we are currently working with Hydro Tasmania and Rio Tinto to understand what a long-term power deal for Bell Bay Aluminium will look like. As I have repeatedly said, it is apparent that there is likely to be a gap between what Hydro can responsibly and commercially offer, and what Rio says it will require in terms of an energy price to run the smelter sustainably and profitably, and so we'll be faced with a gap.

We are working on bridging that gap and getting that gap down to the lowest level that it can possibly be; but, as I did indicate yesterday, it is a large number on current numbers, in the order of \$60 million per annum, and if you extrapolate that out over 10 years, it is a very large number, so it's interesting that you should raise this today.

We have seen just this morning the Commonwealth government stand shoulder to shoulder with the New South Wales Premier, announcing a deal for the Tomago Rio Tinto smelter in the Hunter, where there will be \$1 billion of Commonwealth support provided to Rio Tinto for the operation of that smelter. We are pleased to see that, but we would also continue to advocate strongly to the Commonwealth that they must treat Tasmania and our Bell Bay smelter with similar gravity and seriousness.

We had taken assurances from minister Ayres, and indeed the Prime Minister, around the green aluminium production credit scheme that had been flagged as a likely way that Commonwealth support for Bell Bay would be found. That has in recent times changed, so we are working on a package to put before the Commonwealth and that work is continuing; but we would reiterate that while \$1 billion of Commonwealth support has been provided to Queensland for its Rio Tinto smelter, and today \$1 billion worth of Commonwealth support has been provided to New South Wales for its Rio Tinto smelter, we have a full expectation that the Commonwealth will play a similar role here in Tasmania to support our smelter and our workers and our state.

Bell Bay Aluminium - Request for Support

Mr EDMUNDS question to MINISTER for ENERGY and RENEWABLES, Mr DUIGAN

[2.49 p.m.]

Just a follow up question to that, in terms of deals that are being announced with other states: in terms of Tasmania potentially reaching a deal, what specific additional financial or policy support have you asked the federal government to provide to help keep Bell Bay Aluminium operating, and if so, when was that request made, what support did you ask for, and what response have you received?

ANSWER

As I mentioned previously, our understanding had been that support for Bell Bay would be provided through the green aluminium production credit scheme, and it was in, I believe, July, a number of weeks ago, that the federal member for Bass said that Bell Bay, interestingly, wouldn't be considered under that scheme. I have since spoken directly with minister Bowen

about that change in Commonwealth government policy and how we might then reframe the Commonwealth support for Tasmania. I don't necessarily care from which bucket of Commonwealth funding the support comes; it is important that we have a good understanding of the gap and we can put forward a proposal to the Commonwealth that is well considered and acts in the best interests of Tasmania.

Mr Edmunds - What sort of timeline might there be around that request, perhaps, with indulgence?

Mr DUIGAN - Work on that is happening as we speak. There is an agreed negotiation timeframe being set between the government and Rio Tinto Bell Bay. We obviously need to include the Commonwealth in that, but it is a period of time measured in weeks and not months.

Ashley Youth Detention Centre - Auditor-General Recommendations - Update

Ms WEBB question to MINISTER for CHILDREN and YOUTH, Ms PALMER

[2.51 p.m.]

Thank you, Mr President. Minister, my question goes to the Auditor-General's *Report on the Financial Statements of State Entities 2025-26*, volume 1, which was released today. Minister, this audit details two of the five recommendations made in the 2024 Auditor-General's report on the alignment of the duration of custodial stays at Ashley Youth Detention Centre with related sentencing orders. They remain outstanding in the case of recommendation 5, or ongoing in the case of recommendation 1, which is due by 2028.

Minister, can you provide an update on that outstanding 2024 recommendation 5 for your department to regularly monitor and report publicly on the alignment of youth detention custodial stays with sentencing orders? Specifically, minister, when last inspected, the departmental data dashboard for young people in custodial youth justice provided an array of statistics but does not provide a current assessment of the degree to which youth detention stays aligned with sentencing orders. Can we expect to see that data, as per the Auditor-General's recommendation, released since we are almost exactly two years since that 6 August 2024 report and recommendation?

ANSWER

I thank the member for the question. The department has responded to the report, and I believe that that is actually in with the report; but if I could take the question on notice and come back to you, there were some specific details, and if you would be happy to share the question with me so that I can make sure I answer it thoroughly.

Ms Webb - All right, I am happy to do that.

Mountain Heights School - Teacher Shortage

Ms FORREST question to MINISTER for EDUCATION, Ms PALMER

[2.54 p.m.]

Thanks, Mr President. We're aware of teacher shortages around the state. I'm seeking information about Mountain Heights School in Queenstown, where there's a much bigger challenge in attracting staff generally, but also having a ready supply of relief teachers. The two questions I have at the outset are:

- (1) How many vacancies in teaching positions are there at Mountain Heights School?
- (2) What are you doing to recruit to those positions?

ANSWER

With regard to the actual vacancies at Mountain Heights, I would need to take that on notice, and I could only give you a number as at a certain point in time, because obviously that can change at the beginning of term, during term; there are lots of factors as to why that could move. So, I will get that for you, but I will have to seek that information. It will just be at a point in time. I'll just seek some information on the other question. Thank you very much for the question. There is certainly a lot happening in the space of teacher recruitment, but also teacher retention as well. There's only about a 1 per cent vacancy rate across the workforce -

Ms Forrest - Across the board. I'm interested in Mountain Heights, minister.

Ms PALMER - I can't give you the information. I've already said to you that I will need to take that on notice to get that actual information. It can change on a daily basis. I have said that.

What we're doing, generally, with regards to trying to bolster this workforce, there's quite a lot happening in this space. We certainly have hard-to-staff school incentive packages. We have remote incentive packages for remote schools, and certainly Mountain Heights would fall into that category. They have been taken up, which is really great. We recognise that these are difficult schools to staff, or they are in locations that make it a bit more difficult to have teachers there.

The other thing that we're doing is, we're heavily investing in teacher accommodation, particularly in our remote areas. This is an important consideration, especially from a wellbeing perspective. Whether teachers are working in hard-to-staff schools or remote areas like Mountain Heights, it is important to ensure that they are coming home at the end of the day to modern, fit-for-purpose accommodation. This hasn't always been the case with our teachers - certainly for Mountain Heights where, I believe, 21 unit blocks have been completely refurbished: new kitchens, curtains, carpets and thermal performance. They've come up quite beautifully. We've had excellent feedback, particularly from those at Mountain Heights, about the difference that that has made to them making decisions about whether they're going to stay.

We also have a lot more support now for our early career teachers. We know that, at the moment right across Australia, at around about year three, teachers are feeling: 'I don't want to continue, this is not the job I thought it would be'. In Tasmania, we've now commenced a

first-year teacher induction program. It's a four-day program consisting of three days of professional learning and one day of on-site induction at that school. It's also a program where we have a wellbeing touchpoint for new teachers. I believe it's at about the six-month mark we reach out to them proactively and talk to them. We ask them how it is going, what are some of the things they're struggling with, and what's going well. I think it's important that the department has that touchpoint, especially with early-year teachers.

In addition to all of that, we now have an agreement with the University of Tasmania regarding initial teacher education. This helps us to make sure that people who are going through our only university and getting a teaching degree are really prepared for teaching in 2026 and beyond. Our schools have become more complex, and we're aware of that. It's been fantastic to work with the university who have been open and engaged in this space, to prosecute what their initial teacher education course looked like and ask if it was fit for purpose. At the beginning of next year, there'll be quite a difference to how we're preparing people for teaching.

There are also national recruitment campaigns, international recruitment campaigns, and we have just signed the education workforce negotiations, which provide more opportunities for supporting teachers and principals.

I will take on notice the vacancy number and bring that back to the House.

Crown Lease Renewal - Melaleuca

Ms O'CONNOR question to MINISTER for PARKS and HERITAGE, Mr DUIGAN

[3.00 p.m.]

Minister, Peter and Barbara Willson allowed their Melaleuca home to be used to support the orange-bellied parrot recovery program, housing volunteers and scientists in the south-west for many years. Years ago, when the Willsons finished mining in Melaleuca, they relinquished their mining lease to the conservation area, but retained a Crown lease over their house and outbuildings at Melaleuca. The lease was jointly held by Barbara and her sons, and following the death of Peter, the family applied to renew the lease. The lease renewal application was submitted in December 2022, five months before the lease expired. It's now June 2026 and there's no decision, nor an explanation, from Parks and Wildlife on whether the lease renewal will be granted.

Minister, Barbara passed away in September of last year, with this uncertainty hanging over her family's legacy. Why is it for EOI proponent Daniel Hackett that he can snap his fingers and have his lease over Halls Island renewed, but the Willsons, who've given so much to the Parks and Wildlife Service and to orange-bellied parrot scientists over the journey, are left waiting? What action will you take to resolve this matter?

ANSWER

Mr President, I'm not sure I've got specific information around the issue of the Willsons, but more than happy to take that one forward and prosecute that with Parks and see what the hold-up -

Ms O'Connor - Four years.

Mr DUIGAN - Yes, four years.

Ms O'Connor - So this is new to you?

Mr DUIGAN - I would need to check. It's not one that I'm familiar with.

Ms O'Connor - No, not whether it's new to your advisers; whether it's new to you.

Mr DUIGAN - Well, whether it's come to my office or not. That would be whether it's new to me. If it was in my office, I would have some awareness of it.

In terms of conflating that with the Halls Island lease: the Halls Island lease is out to 2032 - relying on my memory. There is, I believe, a variation that applies annually on the basis that it's still going through approvals processes, so the two are not the same. But I will take up the issue of the Willsons at Melaleuca.

Ms O'Connor - Through you, Mr President, are you okay to come back and provide an update soon?

Mr DUIGAN - Yes, I am.

RA Rodda Museum of Pathology - Update

Ms WEBB question to LEADER for the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms RATTRAY

[3.02 p.m.]

I note the formal apology delivered in parliament on 19 May 2026 to all individuals and families affected by the 177 human organs and tissue samples stolen by forensic and hospital pathologists employed by the Department of Health. These samples were provided to the Rodda Museum between 1966 and 1991. In his apology, the minister advised the parliament that, following further investigative work undertaken by the Health Department, the Director of Public Prosecutions (DPP) had been advised of five individuals who had been identified as likely involved, additional to the previously identified Dr Cummings. Can the government please provide an update on the following:

- (1) Of the additional five individuals identified, does it remain a fact that only four have been fully identified? Noting two of which are deceased, has there been any progress on fully identifying the fifth individual?
- (2) Whether the government has received any advice from the DPP regarding the likelihood of any potential prosecutions of any identified individuals involved and, if so, please detail that advice;
- (3) Any further actions undertaken by the government to provide ongoing support to affected individuals and their families following the delivery of the parliamentary apology.

ANSWER

Mr President, the answer to the honourable member's questions:

- (1) The Department of Health (DoH) conducted further investigations and identified:
 - (a) two additional individuals, in addition to Dr Royal Cummings, who contributed to a significant number of cases and are now confirmed to be deceased; and
 - (b) a further seven individuals whose identities were not fully established due to historical limitations in available records. Of the seven individuals, DoH has been able to partially identify:
 - None are identified as employed by DoH;
 - Births, Deaths and Marriages Tasmania have advised that there are no registered deaths for these individuals in Tasmania; and
 - These individuals are not recorded on the register of practitioners maintained by the Australian Health Practitioner Agency.
- (2) The Department of Health has received advice from the Director of Public Prosecutions which indicates that Tasmania Police have assessed the matter and they will not be conducting any further investigations.
- (3) Following the delivery of the parliamentary apology on 19 May 2026, the DoH in partnership with the Department of Justice and the University of Tasmania, have established a Direct Personal Response (DPR) model for those affected. Participation in this process is voluntary and is intended to provide a respectful and supported way for individuals and families to share their experience, ask questions, and receive a direct personal response, including acknowledgement and, where appropriate, an apology.

A significant number of questions were raised during the pre-apology information session and following the apology, and many of these are specific to individual circumstances. The DPR process has been identified as the most appropriate mechanism to ensure that these questions can be considered and addressed in a careful, accurate and tailored way. Known families and individuals have been contacted by letter advising them of the availability of the DPR process.

In addition to the information on the availability of the DPR process, affected individuals and families have been provided with the following information and avenues for engagement:

- Review of the *Coroners Act 1995*, information on the Tasmania Law Reform Institute's review, including how individuals and families can contribute to inform potential legislative reform
- access to information and records

- contact details of the University of Tasmania to support inquiries relating to remains, records and associated processes
- memorialisation information that work is underway to consider appropriate and respectful options for a memorial informed by the views of those affected, and
- support services - details of available counselling and support services to assist individuals and families both following the apology and also as part of their participation in the DPR process.

Gas-generated Electricity with High Hydro Dam Levels

Ms FORREST question to MINISTER for ENERGY and RENEWABLES, Mr DUIGAN

[3.07 p.m.]

With hydro dam storage at pretty much record levels, why is it has it been necessary to run gas?

ANSWER

I am aware that the Tamar Valley Power Station has been running. I'm advised that is due to a planned scheduled maintenance outage of a machine at Poatina. The penstock at Poatina power plant south station is down and in replacement we are running the gas turbine.

Tamar Valley Power Station - Gas-generated Electricity

Ms FORREST question to MINISTER for ENERGY and RENEWABLES, Mr DUIGAN

[3.09 p.m.]

The follow-up question to that is, has Tamar Valley Power Station using gas only been run to supply Tasmanian demand or has it been used to trade into the higher price periods that have occurred since Basslink has been regulated?

ANSWER

I think I probably need to take that on notice. I don't know that I would have that level of detail.

Answer to Question - Mountain Heights School - Teacher Shortage

[3.09 p.m.]

Ms PALMER (Rosevears - Minister for Education) - It's an amazing team who have messaged me an answer to your question that I took on notice. That's pretty good, isn't it?

Ms Forrest - They're a good team.

Ms PALMER - Good team, very good team. At Mountain Heights currently there are three vacancies. The department continues to work closely with the school to see what we can do to fill those positions.

Youth Justice Act Review - Discussion Paper

Ms THOMAS question to MINISTER for CHILDREN and YOUTH, Ms PALMER

[3.10 p.m.]

In March this year I asked you some questions about the government's review of the *Youth Justice Act*, which is announced on the website as being underway, and I asked you when the discussion paper would be available. At the time you answered that it would be released no later than June 2026, with public consultation to be open for three months.

Minister, I still haven't seen the discussion paper released. Can you provide us with an update on if it's been delayed and if so, why and when we can expect to see a discussion paper on the review of the *Youth Justice Act*?

ANSWER

I thank the honourable member for the question. We remain completely committed to the youth justice system reforms that support a reduction in youth offending, support people impacted by youth crime, protect the rights of children and young people and certainly keep our community safe. I will say there has been quite targeted engagement with key stakeholders. Some of those stakeholders include children and young people with lived experience of the justice system. There's been engagement with our Aboriginal communities, the youth justice and community sector, and also with victims of crimes. In some of those cases we have felt that we would have liked to have reached that timeline I did commit to, but you can see there are some sensitivities around the engagement and the consultation that we're having.

A review of the *Youth Justice Act* hasn't happened for many years, and we really do want to get it right. We are taking more time to consult with key stakeholders to ensure what we do deliver with the discussion paper - which will of course enable our government to deliver that appropriate youth justice system reform - delivers the commission of inquiry recommendations and that will meet the expectations of the community. Public consultation will follow the release of the *Youth Justice Act* review discussion paper, and I am advised that will occur before the end of 2026.

The review of the *Youth Justice Act* is complex. Both the commission of inquiry and the implementation monitor have been clear that what matters most is delivering high quality, lasting reforms that keep children safe. As I say, we are taking more time to consult. We do want to make sure that we get this right. Thank you for the question.

Youth Justice Act Review - Discussion Paper

Ms THOMAS question to MINISTER for CHILDREN and YOUTH, Ms PALMER

[3.13 p.m.]

Thank you, minister, I appreciate it's a complex area and it's really important to engage with key stakeholders to help inform the discussion paper. However, I'm interested in knowing what specifically has changed since March when you were expecting the discussion paper to be released no later than June 2026, and how can we be assured that it will be released no later than the end of 2026 now, given that that first anticipated timeline wasn't met?

ANSWER

As I said, I'm advised there have been some real complexities around that stakeholder engagement, doing that appropriately and sensitively, and it has pushed out the timeline. And while I do take timelines seriously - and they're a good framework and do hold me to account as a minister and the team to account as well - my priority is getting it right, making sure we are giving time where there needs to be time to have that proper consultation. This body of work is certainly being driven not out of a desire to meet timelines, but out of a desire to get it right and to deliver on the commitments that we have made around the commission of inquiry. I know you have a particular interest in this, and I certainly commit to keeping you updated on when that discussion paper will be released and then we will go to public consultation. Thank you.

Youth Justice Act Review - Victims of Crime Consultation

Ms THOMAS question to MINISTER for CHILDREN and YOUTH, Ms PALMER

[3.14 p.m.]

Thank you, minister, I appreciate that. You did mention that victims of crime have been included in that targeted consultation. Can you provide any information on how those victims of crime have been identified or engaged? Is it through the Victims of Crime Service or some other mechanism? Because I know there are a number of victims of crime I've spoken to who really want to have input into this. What mechanisms have been used to identify those people who have been involved to inform the discussion paper?

ANSWER

I will just seek some advice.

I don't have the specifics of that here with me in the Chamber, but am more than happy to come back to you with that. But, of course, once the discussion paper is out, we will then be going to public consultation where there will obviously be an opportunity for everyone to have a look and to give that feedback through that consultation process. One of the things that's really important to us is that the consultation process is sensitive to the fact we are dealing with people who come to this space with trauma and how important it is that their voices are heard; that through the consultation process we are creating an environment where people do feel safe and are given the time to ensure they can express and share their stories in a fulsome way. I can come back to you with the specifics of who's being spoken to.

UNCORRECTED PROOF

MESSAGE FROM THE HOUSE OF ASSEMBLY

Joint Sitting - Senate Vacancy

[3.16 p.m.]

Mr PRESIDENT - Honourable members, before orders of the day, a message from the House of Assembly:

Mr President,

The House of Assembly has agreed to the following Resolution communicated to it by the Legislative Council on 12 August 2026 -

Resolved, That on Thursday, 13 August 2026 at 10.00 o'clock in the forenoon the Legislative Council meet with the House of Assembly in the House of Assembly Chamber for the purpose of sitting and voting together to choose a person to hold the place in the Senate of the Parliament of the Commonwealth of Australia rendered vacant by the resignation of Senator Wendy Askew; and further to adopt the proposed rules for the joint sitting, as previously distributed to members.

Jacquie Petrusma,
Speaker, House of Assembly,
12 August 2026

MT LYELL ACID DRAINAGE REDUCTION (REPEAL) BILL 2025 (No. 53)

Second Reading

Resumed from above (page 28).

[3.17 p.m.]

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) - Mr President, before the lunch break I was giving a little bit of history on the Mount Lyell mine. I will pick up from that.

The Mount Lyell leases are 100 per cent held by Copper Mines of Tasmania, which is a wholly owned subsidiary of Sibanye-Stillwater, a multinational mining and metals processing group that has identified a strong commercial potential for restarting mining at Mount Lyell.

There are two pieces of legislation that are specific to regulating the operations at and around the Mount Lyell mine. The first is the *Mt Lyell Acid Drainage Reduction Act 2003*, the act that we are seeking to repeal today, and the second is the forementioned *Copper Mines of Tasmania Pty. Ltd. (Agreement) Act 1999*, with the latter act containing the ratified agreement in Schedule 1 of the act.

The *Mt Lyell Acid Drainage Reduction Act* was made to provide a framework for a private company to treat acid mine drainage on behalf of the state, and to incentivise them by giving them the rights to any metals or minerals recovered through the treatment process.

The passage of the *Acid Drainage Reduction Act* was driven by a specific proposal from Australian Mineral Investments Pty Ltd to treat acid drainage at the site by installing a copper extraction plant. Unfortunately, this proposal proved to be economically unviable and did not come to fruition. Further to these efforts, the Tasmanian government signed a memorandum of understanding for the implementation of a copper extraction plant in December 2004 with the Australian Government. Due to the technical complexities of developing the treatment system, the memorandum of understanding expired, prior to the construction of the project.

In 2013, the Tasmanian government advertised a request for proposals to develop pollution reduction operations at the site on a commercial basis, with the sale of extracted metals to form a viable self-funding enterprise using the provisions of the act. While several proposals were received, ultimately none of them met the key criterion, which was to operate without significant subsidisation within the constraints of the Acid Drainage Reduction Act.

In summary, to date there have been no viable commercial proposals forthcoming to treat acid drainage under the provisions of the act. The act has never been used, and it is not foreseeable that it will ever be used. The lack of viable technology and the decreasing quality of metals in the acid drainage that has occurred over time reduces the potential for any future commercially viable operation. From a practical standpoint, the act is therefore redundant, and the government considers it is appropriate that it be repealed.

The second piece of legislation is the *Copper Mines of Tasmania Pty. Ltd. (Agreement) Act*. While this act is the responsibility of the Minister for Business, Industry and Resources, it is useful to provide some high-level comments for context.

The *Copper Mines of Tasmania Pty. Ltd. (Agreement) Act* ratifies the March 1999 agreement between Copper Mines of Tasmania and the state of Tasmania. The agreement provides indemnity to the operator of the mine for the legacy environmental issues associated with the acid drainage that emanates from activities undertaken prior to 1999. The state is deemed responsible for the acid drainage that has been determined to be as a result of these historical operations.

In addition, the operator of the mine has obligations under the act to undertake co-treatment of the legacy acid drainage within the scope of the business operations. This means that Copper Mines of Tasmania continues to be involved in the active management of acid drainage from the site, including operating under the conditions of their environment protection notice (EPN). The government's view is that active operation of the mine provides the most effective mechanism for the ongoing treatment and management of legacy acid drainage, and is likely to deliver the best long-term environmental outcomes for the west coast region.

As outlined earlier, the second reason to repeal the *Mt Lyell Acid Drainage Reduction Act* relates to legal uncertainties that have been identified since the act took effect in 2003, including conflicts with the agreement. To explain this, the government provides members of the Council with an overview of the relevant provisions in the *Mt Lyell Acid Drainage Reduction Act* as they relate to the concept of an 'approved person', the rights to minerals obtained during remediation, and potential conflicts with the operator's EPN conditions should an approved person be appointed.

The *Mt Lyell Acid Drainage Reduction Act* enables the minister to appoint an 'approved person' to undertake pollution-reducing activities. In undertaking these activities, an approved person may seek authorisation for the use of both private and leased land, and the rights to any substance, including minerals, obtained through the treatment of acid drainage.

Section 6 (3) of the act creates an offence for any person undertaking a pollution-reducing activity in respect of acid drainage unless they are an approved person. The generality of section 6(3) seemingly conflicts with Copper Mines of Tasmania's operational obligations, including the agreement act and the EPN. It poses uncertainty for the company if an 'approved person' were to be appointed in the future under the *Mt Lyell Acid Drainage Reduction Act*.

Section 14 of the *Mt Lyell Acid Drainage Reduction Act* enables an 'approved person' to seek the minister's intervention to prevent any proposed change to the mining operations of the leaseholder, should there be potential to impact the effectiveness or viability of the 'approved person's' operations.

Section 14 of the act requires that primary mining activities are to be carried out by Copper Mines of Tasmania in a manner that minimises any disruption to the flow and load of metals and minerals in acid drainage.

Importantly, should a third party ever be appointed as an approved person, section 14 seemingly restricts the mine operator from conducting pollution-reduction activities or improving mining operations to reduce acidic outflows and/or improve metal recoveries. This provision conflicts with the obligations of the operator under their EPN and also under the agreement to operate in accordance with best-practice environmental management.

It's a small bill with a long second reading speech, but it's important.

Section 19 of the *Mt Lyell Acid Drainage Reduction Act* prescribes that, in the event of inconsistency between this act and the Copper Mines of Tasmania state agreement, the provisions of the acid drainage act prevail. This makes it impossible for Copper Mines of Tasmania to comply with its environmental requirements should an approved person be declared under the existing provisions of the acid drainage reduction act.

As a result, Sibanye-Stillwater has raised concerns about the potential for the provisions of the Acid Drainage Reduction Act to prevent Copper Mines of Tasmania from complying with its obligations prescribed under the Copper Mines of Tasmania state agreement and section 4 of the *Environmental Management and Pollution Control Act 1994*.

As noted earlier, Sibanye-Stillwater, Copper Mines of Tasmania's parent company, is investigating the potential for recommencing mining operations at Mount Lyell. The concerns raised by Sibanye-Stillwater have highlighted potential risks and investment uncertainties associated with the current legislative framework. The government considers it's appropriate that the *Mt Lyell Acid Drainage Reduction Act* be repealed, reducing unnecessary legislation and removing the investment disincentive that currently exists. The government's view is that repeal of the act will improve legislative clarity, remove regulatory uncertainty and ensure that environmental management activities at the site continue to be undertaken through established statutory mechanisms, including the Copper Mines of Tasmania agreement and the *Environmental Management and Pollution Control Act 1994*.

A restart of the mine will create regional employment opportunities and enable the production of copper and other minerals necessary for the transition to renewable energy. Importantly, it would also improve treatment of legacy acid mine drainage under active operation and regulatory control by the Environment Protection Authority (EPA). The government considers that this approach provides the most practical pathway to achieving improved environmental outcomes for the affected river systems and broader west coast region.

This bill forms part of the government's commitment to support the restart of mining operations at Mt Lyell. The government commends the bill to the Council.

[3.29 p.m.]

Ms FORREST (Murchison) - Thank you, Mr President. I rise to speak on the Mt Lyell Acid Drainage Reduction (Repeal) Bill 2025, and I do note that for a reason. It is a short bill with a narrow legal purpose: one that touches directly on the economic and environmental future of a significant part of the electorate of Murchison. I think people would be surprised if I hadn't risen, quite frankly.

Ms Rattray - I think the bill waited for you.

Ms FORREST - Yes, well, I wish it hadn't, really, because the reality is this has been sitting around since 2025. Sibanye-Stillwater have been doing their due diligence all over this period; they picked this problem up as part of that due diligence. If we want people to invest in this state, surely, when a genuine impediment and a legitimate - and I'll get to that, why it's so legitimate, the repeal of this act - that we could have lost this opportunity. Anyway, that's not the Leader's problem but it is a bit disappointing that it's taken so long to get here. I note it's a long speech for a fairly small and relatively straightforward piece of legislation, but I want to thank the members of MRT who put so much effort into making sure this was really clear, particularly as they've been gutted just recently in the machinery-of-government changes. There have been a number of redundancies and we now have far fewer resources in MRT than we had. That's a matter for another day, but I want to make that point because I know some of the people who probably worked on this are no longer there.

Ms O'Connor - Replaced by AI, probably.

Ms FORREST - Well, that will make all the difference, won't it?

Anyway, that said, I know I was away when the briefings occurred in this Council, but I was lucky to have my own personal briefing. As I said, I would have been happy to have seen this progressed during that week - several weeks ago now - as it is an important matter. It was picked up by the new owners, the new parent company doing a very thorough due diligence on the future of this mine.

I'll come to some of those matters later and speak in broad terms before I come to the reason why we are here to repeal the *Mt Lyell Acid Drainage Reduction Act 2003*.

As we've heard from the second reading - and I know there was information provided in the briefings - the case for repeal rests on two grounds. First, that the 2003 act's provisions - in particular the mechanism for appointing an approved person to undertake pollution-reduction activities and the priority that act gives itself over the Copper Mines of Tasmania agreement of

1999 in the event of an inconsistency - does create a genuine legal uncertainty for the current leaseholder, which is Copper Mines of Tasmania, whose parent company is Sibanye-Stillwater.

Sibanye-Stillwater have been working through trying to get this mine restarted. It is interesting that this mine has been in care and maintenance for a long time and it seems like sometimes we fail to pick up what can be the obvious situation. Even when the bill was enacted in 2003, and the agreement was put in place before that in 1999 that the act would override to the potential detriment of the environment. That's what it was: the potential detriment to the environment.

The second thing is that the act has never been used since its passage 23 years ago. On the evidence available, it included two failed attempts in 2004 and again in 2013 to establish a commercially viable, self-funding acid drainage treatment option. It appears that there is no reasonable prospect that it ever will be, certainly not on a totally commercial basis where it won't require some significant subsidisation.

I don't intend to relegate the clause-by-clause legal analysis of this. There is significant detail in the second reading speech, as I've said, and the clause notes do carry it out. But I want to go to the sections and repeat some of what the Leader said in her second reading speech to make it clear.

Section 14 of the *Mt Lyell Acid Drainage Reduction Act 2003* enables an approved person to seek the minister's intervention to prevent any proposed change to a mining operation of the leaseholder should there be potential to impact the effectiveness or viability of the approved person's operations. What that's saying is that should you get an approved operator to come and try and remove the acid drainage - to clean the runoff from the mine site, not just from the mine itself but off the mountain and down into the river. If, let's say Sibanye-Stillwater, for example, were to undertake any measures to reduce the amount of acid drainage from that site and the amount of minerals that might escape from that site, they can't. Well, they could, but the minister could be directed by this authorised person to say, 'No, you've undermined the financial capacity of this approved person, so no, you can't improve your environmental treatments, you have to do it according to the old practice or the practice that sits currently', rather than improve things, and surely we want all mines to be improving their environmental practice, all the time, surely?

Section 14 of the act requires the primary mining activities to be carried out by Copper Mines of Tasmania in a manner that minimises any disruption to the flow and load of metals and minerals in acid drainage. This effectively says to me that they can't work proactively to capture the drainage from the site and prevent it going into the river, or through the area where this approved person is seeking to reduce the harm.

Should a third party ever be appointed as an approved person, section 14 similarly restricts the mine operator from conducting pollution-reduction activities, or improving mining operations, to reduce acidic outflows or to improve metal recoveries. What a crazy thing. It is an absolute no-brainer to deal with this, because hopefully this mine will recommence, with far better practices.

There are legacy issues from a century ago, which are now the responsibility of the state, as it was also outlined in the second reading speech. But I am very aware that other mines, like Savage River Mines, have legacy issues there - similar but different problems. It's only through

the operation of the current mine there that many of these legacy issues have been properly addressed, because they've been doing it on their site. If a mine sits in care and maintenance or just closes, then the legacy issues are never fixed. We now have a slightly different situation where we ask them to pay a bond to try to make sure that it does get cleaned up. However, back in the day when we weren't aware - well, yes, the people operating the mines at the time either did know and said 'Well, not our problem' or weren't aware of the harm that was being done.

I remember going down to Macquarie Harbour as a kid with my grandparents, out near Teepookana, where you come out onto the beginning of the hub where that rail comes through, and literally the reeds and the, sort of like sand, was bright orange, like there's nothing in here - maybe that member's drink bottle was about that colour, proper full-on tangerine.

Ms O'Connor - It's still like that.

Ms FORREST - Yes, it really - well it's far less than it was, far less than it was. It's going to take hundreds of years. We should be doing whatever we can to make sure that measures are taken to reduce the acidic drainage and minerals from getting into the system. To think that there could be a situation here where someone does come along and say, 'Well, I'm going reprocess this, and capture the acid drainage, and the minerals that are coming off the site', and that prevents an operator of the Mt Lyell Mine from taking good environmental action to capture the run-off, as well as the minerals that come from that site. The west coast is a wet place, generally, and there is a lot of rain that falls on the mountain - very beautiful mountain around that area, and there is acid drainage because of the rain, not just because of the mineral operations. In some parts where there's acidic rock exposed to the weather, there is also acid drainage. I mean, it's not just mining that causes this, but mining certainly has contributed to it, and we need to do all we can to prevent that.

It seems quite crazy that the minister could appoint a third party to undertake remediation works, with rights to any recovered minerals and the powers to constrain the mine's operations to do so. When we follow that through, this bill that we're repealing had created a framework that sits awkwardly, to put it mildly, alongside the operator's obligations under the environment protection notice, and the 1999 state agreement.

To reiterate, it would effectively stop the mine operator doing things better, including reducing the amount of ore and minerals, as well as acid, in the wastewater, to ensure the downstream operator did not have less mineral contaminants in the water to keep them viable. I will cut a bit of slack - I'm pretty sure this is not the intent when it was put in place, but it obviously was an issue and a real problem picked up by Sibanye-Stillwater in their due diligence. As I understand from talking with them, they want to do things differently, including in their mining operations as well as the environmental matters. There are stronger environmental laws to require them to. One needs to change and, in my view, this is the best way to get the best environmental outcome without the risk of an adverse or perverse outcome.

Whether or not that conflict would ever have been tested is actually beside the point. When you've got big investments being made, people need certainty; where this level of uncertainty hangs over, it makes sense. What matters for the purpose of this bill is that redundant legislation does carry residual legal risk and, in itself, is a disincentive for investment, and I accept that proposition.

I also want to spend a little bit more time on what this bill means for the west coast, and for Murchison more broadly, because the technical repeal is only a small part of a much larger story about the mineral wealth of my electorate and the role it can play in Tasmania's economic future. Mt Lyell is not just any mine; it's been over more than a century of operation, has produced an excess of 1.4 million tonnes of copper, 50 tonnes of gold and 15,000 tonnes of silver. A resource endowment valued in today's prices is somewhere around the order of \$15 billion. It was, for generations, the economic backbone of Queenstown and the west coast, as well as with other mines on the west coast.

It has also, since 2014, sat in care and maintenance - it seems like it is a long time ago now. That followed the very tragic deaths of three miners: Craig Gleeson and Alistair Lucas, who fell from a collapsed maintenance platform in December 2013; and Michael Welsh, who died in a mud rush six weeks later. It was a horrific time for that community. I remember the way that town and the west coast, broadly, was impacted by that. Many people hung around for a very long time thinking 'Oh, it will restart and we'll have our jobs', because it was a sudden stop, for the right reasons, because there were unsafe practices. It really rocked that town and there are still people there who remain deeply impacted by those really tragic deaths. These events did really rock our tight-knit community. As I say, that pain and loss is still real and present to many members of our community down there. This is the loss that the House should not pass over when we're considering debate on this bill and when we talk about the mine's future.

The subsequent coronial inquest found each death would have been avoidable had basic safety principles been followed. Copper Mines of Tasmania was convicted and fined over the deaths of Mr Gleeson and Mr Lucas. Any restart of operations at Mount Lyell must be built on the lessons of that inquest, with safety, not just commercial viability, at its centre.

The west coast's mineral endowment does not begin and end with Mount Lyell, however. Murchison takes in a large mining region that hosts some of the most significant base and critical mineral operations in the country: the MMG Rosebery mine, producing lead, zinc, gold, copper and silver; the Renison operation near Zeehan, one of the largest underground tin mines in the world and a major contributor to the global tin supply; Henty Gold Mine, near Queenstown, producing gold, unsurprisingly; and Savage River, Australia's longest-running magnetite operation converting iron ore to pellet at Port Latta as a boutique and niche product, just to name a few. There are many others; many of these are very old mines and many of them have significant legacy curiosities as well. But as I said, when you have a mine that's operating, you have a chance of that being remediated as the work continues.

There are current, operating mines - these are ones I mentioned - employing many people and several of the commodities they produce - like tin, copper and many others, a broad suite of base metals associated with these deposits - are recognised nationally and internationally as critical to the technologies that underpin renewable energy generation, storage and transmission. That context matters as to how this House ought to think about Mt Lyell. Sibanye-Stillwater has indicated commercial interest in restarting production. I've heard similar noises for many years with other owners, I might say. But with this level of attention to detail, I believe there's a real opportunity for a restart and enhanced environmental requirements. I know that the board had been in town not that long ago. It's really time that we need to progress this.

I also make the point that the Lake Margaret Power Station was built to support Mt Lyell. When I was asking the current GM there just last week about this, whether that is still the case - and it will be - they will need more energy probably than that. But what a legacy, the fact that we've still got our wooden pipeline there.

Ms Rattray - We've seen it. We've been there.

Ms FORREST - Yes, I know. I took people up there because they were going to put up some horror show of - I don't know what was it going to be - fibreglass?

Ms Rattray - Stovepipe, I think I recall.

Mr PRESIDENT - Stave.

Ms FORREST - Stave. Yes, wood stave pipeline. Yes, and it is truly a sight to behold. And with the late Darryl Gerrity.

Ms O'Connor - Wonderful man.

Ms FORREST - A wonderful man - character of all characters. We really fought hard and with the community down there to save that - an iconic part of west coast history. The Lake Margaret Power Station, the lower station, has also been recommissioned since. To think it was potentially going to be closed down and mothballed and some horror show of pipe put up, but no. We had many people from Hydro who were really keen to see that replaced with a wood stave pipeline and it has been.

A small digression there, but I want - and I know the member for Hobart wants - the Queen River to recover from the legacy issues of the past. We all know how harmed that river was and is. I see a mine operating under far stricter environmental controls and far safer mining methods to make a positive environmental contribution to legacy issues of the past and make a significant positive economic and social contribution to Queenstown, the west coast, and the entire north-west and the state. This will be achieved through better environmental controls and monitoring, the construction of new homes and accommodation for workers within the town, which I know will be part of the plan of Sibanye-Stillwater, increased local employment and skills development, and, of course, mineral royalty payments that we as a state absolutely need.

I am, however, being cautious against overstaying the certainty of a restart on the strength of removing one piece of redundant legislation. They still have to complete their due diligence and get to FID with their board. I hope by the time members come with me on my electorate tour in February and we visit the site, we will have definitive news. Hopefully we will be visiting.

Ms Rattray - Dancing in the street?

Ms FORREST - I don't think there will be active production, but hopefully there's a more definitive decision. Noting that, however, I do accept the logic that a producing mine, operating under a current environment protection notice and subject to ongoing regulatory oversight of the Environment Protection Authority is more likely to deliver effective long-term management of acid mine drainage than a closed mine subject to a dormant statutory scheme that has never been used in 20 years - 23 years in fact.

The EPA's own published material is clear on the point. Mine closure does not resolve the acid drainage problem at Mt Lyell. The high rainfall and volume of exposed sulphidic rock at the site mean that absent active intervention and acid drainage will continue to affect the Queen and King rivers, and by extension, Macquarie Harbour, for a very long time. If active operation, properly regulated, offers a better prospect of addressing that legacy than the status quo, that is a far preferable outcome and a welcome change.

I know this bill, when it passed through the House of Assembly, receiving second and third readings on 7 May 2026 - and again I said it was a 2025 bill - it passed downstairs on 7 May and here we are on 12 August. I seriously do question the delay in getting this to us, but I'm sure the board of Sibanye-Stillwater would prefer the certainty of legislation when making a very significant and costly decision regarding possible restart of the mine. For my part, representing an electorate that runs from the Circular Head and Waratah-Wynyard municipalities through the west coast, and of course we've got mines on King Island as well, I'm acutely conscious of what mining employment means to these communities.

Regional residential mining jobs of the kind offered at Rosebery, Renison and potentially again Mt Lyell offer west coast families the opportunity to remain in their communities rather than commuting fly in, fly out from elsewhere into the state or interstate, and that has flow-on effects. It has flow-on effects to our local schools. I know there are challenges; I asked the minister earlier about recruiting staff to these areas. If there's an improved social and economic benefit to this town, it'll be easier. It is easier when you have a greater positivity around the town. It will also improve the health services for the same reasons. Small businesses will reap the benefit and community sustainability that goes well beyond royalty payments and employment figures that tend to dominate this kind of debate.

None of this is the reason to wave legislation through uncritically, however, and I have asked myself in preparing for this debate whether repealing the 2003 act removes any genuine protection for the river systems and communities downstream of Mt Lyell. On the material available to me, I'm satisfied it doesn't.

In fact, it has the likely opposite effect. The substantive protections, the environment protection notice, the *Environmental Management and Pollution Control Act* and the ongoing regulatory role of the EPA remain in place and unaffected by this bill. What is being removed is a parallel, unused and legally awkward scheme that has never delivered a single tonne of treated acid drainage in over two decades. That said, I would, however, ask the Leader to confirm on the record that it is the case that, by the government's assessment, there is no substantive environmental protection loss through this repeal and that the EPA's existing powers under EMPCA and the current EPN are considered sufficient to manage acid drainage from the site, regardless of whether Mt Lyell restarts or remains in care and maintenance.

This bill is not a trivial one for the west coast. It removes a piece of legislation that just sat unused since 2003 and it appears, on the evidence before us, to work against rather than for the outcome which it was designed to achieve; I believe its repeal genuinely clears the path for renewed investment, employment and ultimately better-regulated environmental management and better environmental outcomes at one of Tasmania's most significant mineral deposits. I think we should see it supported.

[3.54 p.m.]

Ms O'CONNOR (Hobart) - Thank you, Mr President. Well, as we did back in 2003 in the other place, and as we did in May of this year in the other place, on behalf of the Greens, I can say we'll be supporting the Mt Lyell Acid Drainage Reduction Repeal Bill of 2025.

I really enjoyed the honourable member for Murchison's contribution and admire that love for the west coast, that remarkable and special place. I don't know if many honourable members have read *The Peaks of Lyell* by Geoffrey Blainey, but it is one of our great historical books and certainly personally, once I read it, I had a much deeper understanding of the fact that the Mt Lyell mine and the Mount Read Volcanics, more broadly, the startup and operation of that mine was absolutely foundational to Tasmania's early economy. When the first of the high-value minerals were prospected out of there, there was actually a kerfuffle on the London Stock Exchange about this incredible ore deposit in Tasmania, and you'll read about this in Geoffrey Blainey's book; and then we saw the local equivalent of a gold rush, and so the foundational Tasmanian post-colonial economy was in very significant part underpinned by Mt Lyell, the Mount Read Volcanics and the activity -

Mr PRESIDENT - It carried the nation for a while.

Ms O'CONNOR - Well, thank you for that. I didn't know it carried the nation for a while. Certainly, it started Tasmania as a post-colonial economy.

Ms Forrest - You know they call that ore body the holy host?

Ms O'CONNOR - The holy host.

Ms Forrest - Because it hosts so many incredibly important minerals. Well, some of the geologists call it that. It's probably a name from love, and loving that mineral ore body.

Ms O'CONNOR - Yes. Copper, gold, silver, tin, zinc.

Ms Forrest - All the things.

Ms O'CONNOR - All the things. Back in the day, 23 years ago, when the bill that we're seeking to repeal today went through the Assembly, we reluctantly, on the history as I understand it, supported the bill we're seeking to repeal, but we did support it on the premise that the funding, and the company that sought to undertake these works, were in place, that all agreements were ready to roll, and that the remediation and the clean-up of - particularly the Queen, but also the King River obviously, because they're deeply connected - could begin happening, and we'd see work happening from when this was put in place in 2003.

At the time the then-Greens leader and member for Denison Peg Putt said, statement of fact: Tasmania has the most appalling legacy in mining pollution; I think from over 250 mines around the state, Mt Lyell would be the most outstanding, if you want to use that word, example of this appalling legacy. Here we stand, and it's interesting when you go back and have a look at some of the other *Hansard* from the original debate, it shows just how much times have moved on. Subsequent to the passage of the original bill, we've got a quote here from Judy Jackson in response to one of Peg Putt's questions, because parliament had passed the legislation and then the hopes and dreams that accompanied that legislation failed to materialise.

Ms Forrest - And I also think - wasn't that when they took the money that was available to fund the fox taskforce?

Ms O'CONNOR - Do you think so? That's a good story for another day.

Ms Forrest - Yes, it would be, I have to - I meant to check that.

Ms O'CONNOR - So, then-environment minister Judy Jackson said in response to Peg's question about whether the project for which the bespoke legislation had been crafted and passed had fallen over:

The government has stated that cleaning up the King River is the state government's number one priority. Acid mine drainage into the King and Queen rivers is a world-scale environmental disaster, and despite the containment of acid drainage related to the current mining on the site, it will continue to poison the King and Queen rivers, and impact on the World Heritage Area and Macquarie Harbour. Resolution of this problem has been a long time coming, given that the clean-up will take over 100 years, so of course we are keen that it commence.

So, almost a quarter of a century ago -

Sitting suspended from 4.00 p.m. to 4.30 p.m.

MT LYELL ACID DRAINAGE REDUCTION (REPEAL) BILL 2025 (No. 53)

Second Reading

Resumed from above.

Ms O'CONNOR (Hobart) - Mr President, I did say I'd only make a brief contribution on this bill, and I will. I was, before the break, reflecting on former environment minister Judy Jackson's statement that the government's number one priority was cleaning up the King River. What we know about both of those rivers is that they're effectively devoid of life. I think it was over about 80 years during Mt Lyell's operation, something like in the first 80 years of its operation, 100 million tonnes of tailings were dumped into the Queen River along with the sewage of Queenstown.

Today, it still looks like a profoundly damaged river. The EPA, at the time on the original bill, explained that the acid mine drainage occurs when sulphide-bearing rocks are exposed to oxygen, the air, and water. The quote from the EPA was that:

[Until] remedial action is taken, AMD [acid and metalliferous drainage] will continue to contaminate the river system for hundreds of years. It is important to realise that mine closure would not solve the problem because of the high rainfall and large volumes of broken sulphidic rock at the [time].

That legacy is still there today, and I do hope that Copper Mines of Tasmania takes the opportunity to help clean up. We have legacy sites all over the island where companies have come in, extracted public resources and left governments of the day and therefore the taxpayers to clean up their messes. That is no longer acceptable, although that doesn't mean it's no longer happening.

With those few words, I will say we support the bill. I note this is a repeal bill. I want to remind honourable members that in the government's first 100 days plan, they have announced the inaugural legislative repeal day. That will certainly be something to potentially not look forward to, when you treat legislation and regulation in such a way that it becomes an event where you have an inaugural repeal day. It is dismissive of the parliament. But the repeal of this 23-year-old bill is welcome.

[4.33 p.m.]

Ms GLADE-WRIGHT (Huon) - Mr President, I rise to support the Mt Lyell Acid Drainage Reduction (Repeal) Bill 2025. I'm sorry I haven't been to the area, so I don't know this area personally and I don't have these lovely, rich stories to add to my speech. This is a relatively simple bill, but it addresses an important issue for Tasmania's west coast and for the future management of the Mt Lyell mine site.

The bill repeals the *Mount Lyell Acid Drainage Reduction Act 2003* legislation that was originally intended to enable a private operator to extract metals from acid drainage generated at the Mt Lyell site. However, more than two decades after its passage, the act has never been used and therefore there are no foreseeable circumstance in which it will be used. The material accompanying the bill makes it clear that the 2003 act now creates legal uncertainty because some of its provisions conflict with, or are inconsistent with, the arrangements established under the *Copper Mines of Tasmania Pty. Ltd. (Agreement) Act 1999*. In particular, provisions relating to approved operators, rights to recovered minerals and the management of acid drainage have the potential to create uncertainty for future investment and mine operations.

Importantly, this bill does not remove environmental obligations or diminish the significance of the environmental legacy that exists at Mt Lyell. The second reading speech acknowledges the long history of impacts on the Queen and King rivers and Macquarie Harbour, and it recognises that acid drainage remains an ongoing challenge at the site, as detailed by the member for Murchison. What the bill seeks to do is remove legislation that is redundant and potentially acts as a barrier for future investment.

According to the government, the most effective long-term approach to managing acid drainage is the successful restart of mining operations, providing the resources and infrastructure necessary for ongoing treatment and management of mine water.

Mt Lyell has played a significant role in Tasmania's economic history, we heard before from the President. For generations, it provided employment and opportunity for west coast communities and contributed substantially to the state's prosperity. Any future development of the site must, of course, occur within Tasmania's contemporary environmental and regulatory framework, but removing outdated legislation that serves no practical purpose is a sensible step.

Mr President, good legislation should be clear, relevant and necessary. When a statute has never been used or is no longer required for its original purpose and creates uncertainty

alongside existing legal arrangements, parliament should carefully consider whether it ought to remain on the books. In this case, I am satisfied that repeal is appropriate. For those reasons, I support the bill and commend it to the House.

[4.36 p.m.]

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) - Thank you, Mr President, and acknowledge the contributions from members and very much, again, as the member for Hobart said, we enjoy the little history and your passion for the west coast, honourable member for Murchison; it is never lost on any of us.

In relation to the questions that you asked on confirming that the repeal of this legislation will cause no environmental loss, the government can absolutely confirm there will be no environmental loss due to the repeal of this legislation. Any future mining operation will be required to comply with the rigorous EPA regulatory requirements. Restarting the mine is the most effective way to ensure active management of legacy acid mine drainage at the site, as you have mentioned, honourable member, and it says here in your very thoughtful speech, so I appreciate that.

Once the mine reopens, there will be a requirement to co-treat the acid mine drainage in accordance with the Copper Mines of Tasmania agreement. The mine has been, as you have indicated and was indicated in the second reading speech, in care and maintenance since 2014, of which the requirements are only in accordance with the care and maintenance plan. There's no requirement for co-treating in care and maintenance. I trust that that answers your questions.

I have a rather lengthy summary, but when I've had a look at it, and please don't be offended, but it pretty much says again what we've already stated in the second reading speech and certainly in the contribution.

To finish off, the restart of the mine would be the best outcome for the west coast community and for Tasmania and will create social, economic and environmental benefits for the region. Certainly, Mr President, we all want to see best practice. I commend the bill to pass.

Bill read the second time.

MT LYELL ACID DRAINAGE REDUCTION (REPEAL) BILL 2025 (No. 53)

In Committee

Clauses 1 and 2 agreed to.

Clauses 3 and 4 agreed to.

Schedule 1 agreed to.

Title agreed to.

Bill reported without amendment.

[4.41 p.m.]

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) -
Mr President, I move -

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

Motion agreed to.

**POLICE OFFENCES AMENDMENT (INCREASED PENALTIES FOR
DAMAGE TO TASMANIAN WAR MEMORIALS) BILL 2026 (No. 5)**

Second Reading

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) -
Thank you, Mr President, I move -

That the bill be now read a second time.

To clarify for members of this Chamber, the increased penalties for damage to Tasmanian war memorials progressed through the House of Assembly as a private member's bill introduced by Mr Ferguson. The government has committed to taking carriage of the bill in this Chamber as government business.

This bill gives effect to a clear and important principle that acts of damage, desecration or interference with war memorials in Tasmania are not merely property offences; they are offences against our shared history, our community values, and importantly, the memory of those who served and sacrificed for our nation.

War memorials occupy a unique place in our society. They are not ordinary structures. They are places of reflection, commemoration, and respect. They stand in towns and cities across Tasmania as enduring reminders of the cost of conflict and the service of Tasmanians in times of war. When these memorials are damaged, the harm is not confined to physical loss. It is felt deeply by veterans, their families and the broader community.

This bill amends the *Police Offences Act 1935* to strengthen the existing offence relating to interference with war memorials under section 37AAA. It does so by introducing significantly increased penalties that better reflect the seriousness of this conduct. Under the amendments, a person who interferes with a war memorial will face a penalty of not less than 25 penalty units and not more than 500 penalty units or imprisonment of a term up to seven years. This represents a substantial increase and sends a clear message: this kind of behaviour will not be tolerated.

The bill retains the summary nature of the offence, ensuring that matters can be dealt with in the Magistrates Court, while still providing the court with the capacity to impose a sentence that reflects the gravity of the offending. While the maximum term of imprisonment exceeds the default limit ordinarily applied under section 13 of the *Sentencing Act 1997*, it is an established principle of statutory interpretation that newer penalty provisions may override the default. There is precedent within the Tasmanian statute book of summary offences carrying higher maximum terms of imprisonment, and this bill adopts that same approach.

This bill also introduces a strong focus on accountability and restoration. It provides that, in addition to any other penalty, a court is to make a community correction order where it is reasonable to do so, requiring the offender to perform community service in the area where the offence occurred. This is a practical and meaningful response. It ensures that offenders are required to give back to the very community they have harmed, and to confront the consequences of their actions in a tangible way. At the same time, the court retains discretion, ensuring that the order is applied appropriately in the circumstances of each case.

Further, the bill amends the *Sentencing Act 1997* to ensure that offences involving damage to war memorials are captured within the framework of mandatory compensation orders. This means that offenders will be required to contribute to the cost of repairing the damage they have caused. This is an important measure that reinforces personal responsibility and helps ensure that the financial burden does not fall on the community.

Taken together, these reforms strike a careful balance. They significantly strengthen penalties to reflect community expectations, while preserving judicial discretion, and embedding principles of restoration and accountability. This bill is about respect: respect for those who have served, respect for the families who continue to honour their memory, and respect for the places that embody that legacy. It is also a deterrent. By increasing penalties and reinforcing consequences, this bill aims to prevent these acts from occurring in the first place.

Finally, this bill is about community standards. Tasmanians rightly expect that those who deface or damage war memorials will face serious consequences. This bill delivers on that expectation.

[4.47 p.m.]

Mr GAFFNEY (Mersey) - I rise to speak to the Police Offences Amendment (Increased Penalties for Damage to Tasmanian War Memorials) Bill 2026. I note that it has originated as a private member's bill by the honourable member for Bass, as an obvious and immediate response to yet another mindless desecration of a Tasmanian war memorial.

I know that many Tasmanians would be disappointed to learn that there have been 14 significant acts of vandalism to war memorials since 2007, especially disheartening as we have, in recent decades, witnessed growing community interest in supporting commemorative events such as Anzac Day, Vietnam Veteran's Day and Remembrance Day. Community involvement in commemorative services is more apparent now than it's ever been. In fact we now have tens of thousands of Tasmanians who devotedly attend their local Anzac Day services, for some, both at dawn and the community services later the same morning, often with a hearty community breakfast after dawn services put on by service clubs and the RSLs. If I took my own immediate community, Anzac Day in Latrobe, sees a huge community turn out that fills the town centre. It's one that begins with a parade of veterans, cadets, school students and community organisations, all led by the Latrobe Federal Band, the oldest continuous brass band in Australia. Both the dawn and latter community services have speeches that acknowledge the incredible sacrifices made by our armed forces, with the laying of wreaths and floral tributes in recognition of those who never returned and many of whom are buried in foreign fields far from their families, homes and loved ones.

Mr President, the last point is a key point. Almost all the wars and conflicts our armed forces have been involved with have been far from Tasmania, far from our home, and often far from Australia in the Northern Hemisphere. Those who have lost their lives in service areas

overseas rarely make it home and are interred close to where they fell, or are committed to the ocean's depths. Whilst we fully appreciate the role of the Commonwealth War Graves Commission and the Office of Australian War Graves, it's the war memorials in our local communities that give a family a direct and lasting connection with the sacrifice of their loved one. That's why an act of desecration to a war memorial is profoundly offensive.

It's not only the physical desecration that causes offence. This year we saw numerous shouts and vocal interruptions at services from people who should know better. There's a time and a place for almost everything, and certain groups of people decided the Anzac Day ceremony was their time and their place to create a disturbance. A time where they sought to disrupt parts of the ceremony they disagreed with, and shame on them for doing so. Maybe that's the true nature of a free society, a society that our armed forces fight so hard to defend. From my perspective, it's a sad indictment of our society when the misguided heckles echoing populist politics intrude on such important occasions.

That's not to say there aren't consequences for such disruption. We have just seen the successful prosecution in a Melbourne Magistrates Court of four members of the nationalist neo-Nazi group that were found guilty of behaving in an offensive manner in public, with fines of up to \$1900 each. There was a similar case in New South Wales where a Sydney man was charged and pleaded guilty to an act of nuisance for booing during Sydney's dawn service. Tasmania had its own example at this year's Anzac Day service in Longford with the booing of Her Excellency the Governor, Barbara Baker, as she delivered the Acknowledgement of Country, a move that brought swift condemnation from all sides, that reinforced the government's statement that any disruption 'offends the solemnity of this important national occasion', but with no arrests or prosecution of the heckler. If only there was a part of the bill that might address such behaviours, possibly that's where education programs can begin to make a difference as espoused by the RSL.

There have been comments that war memorials should be listed on the Tasmanian Heritage Register to give them greater protections. That's not to say that all war memorials are historical monumental structures first built in the aftermath of the Great War. In Latrobe, we have the Sheean Memorial, which leads to the Sheean Walk. It's a memorial monument developed in the 1990s to commemorate the incredible courage and bravery of Edward 'Teddy' Sheean VC. The memorial details how he sacrificed his own life whilst defending his HMAS *Armidale* shipmates from attack by Japanese fighter planes - an ordinary seaman.

It was thanks to a significant campaign supported by all sides of politics and the RSL that finally led to his courage and sacrifice recognised with the Victoria Cross, the highest possible award of gallantry, and a Collins Class submarine named in Ted's honour. The memorial was recently updated with the award of his posthumous VC and the walk to Bell Parade refreshed at the same time.

The walk is a unique series of plaques placed along the route to commemorate the actions of Australian soldiers who fought in World War II in Malaya, Borneo, Vietnam and Korean conflicts. It demonstrates that memorials are involving remembrances of service given by our armed forces to defend our freedoms and our way of life. When compared to what we used to know as the home country, our war memorials recognise and acknowledge those who serve and came home, as well as those who did not. As such, they are very much a living history.

If we moved around the stone cenotaphs in town centres and into our small and rural communities, we have locally made honour boards, memorial gates, windows and gardens of all kinds. These are all highly personal memorials placed in halls, gardens, churches and schools, acknowledging the service and sacrifice of the service members in their communities, many of which are updated as new conflicts and service arise. All of these memorials of war service and sacrifice are installed and maintained by local people.

Wilful damage and desecration of war memorials of any kind is an unconscionable act. I am concerned that whilst there is an absolute need to have legislation in place that will bring the full weight of the law down on offenders, it must do so, though, in a way that acts as a complete deterrent to even begin to contemplate committing such a heinous act. The bill's expansion of the maximum penalty sure does that and re-establishes the importance of place that war memorials of every kind have in our communities.

The bill also changes an order to pay compensation for damage out of being a civil action into a court order. It's a change that will avoid frustrating delays and seeking restitution from offenders and make sure they are fully accountable in making good any damages they may have caused, either deliberate or accidental.

However, Mr President, what does concern me about this bill is a proposed minimum of 25 penalty units in the new schedule. A penalty at the current rate of \$205 for each unit amounts to \$5125, a significant sum. It's a transposition of what was the maximum penalty of conviction of 25 penalty units, and now it's a new maximum limit of 500 penalty units. The latter is subject to a court's sentencing deliberations, while the new minimum removes it completely. The bill does add the provision to make a community correction order and to impose other sanctions, and makes other orders a court may consider to be appropriate in the circumstances. The latter points give a court the opportunity and the discretion to set penalties that can be shaped to suit the degree of the offence and penalties that might better reflect the expectations of the community in which the offence occurred.

I understand as part of the discussion in drafting the bill, the RSL was keen to see the development of educational programs with a restorative justice approach which would raise awareness of what a memorial means to the community and the impact of an offence. That's not to let an offender off lightly; it's simply an additional tool available to a court in its sentencing. Given that the old maximum is to be the new minimum, the absolute penalty that a court has no choice but to impose before considering any other option available to it, I'll be moving an amendment to retain the discretionary-based sentencing drafted in current legislation. It's not a soft option as it still allows a court to impose a 500-unit penalty, jail an offender and add additional penalties as it sees fit.

It does allow, though, for a court to impose a sentence that best reflects the offence. For example, if a person playing five-a-side soccer at a memorial hall kicks a ball that damages an honour board, is it right that they have a 25-unit penalty applied to them where maybe a bit of education and community service would create a far better outcome? In considering an amendment, I did consult with the Law Society of Tasmania for its response to my proposed amendment and to the bill in its entirety. I received the following reply:

Your proposed amendment would remove the mandatory part of the sentence and if the bill were to pass, the amendment would be an improvement.

Having said that, the Society remains of the view that the bill should not be passed.

That's a striking response from what we would expect to be a quite conservative profession that has a deeper understanding of prosecuting and defending criminal cases in a variety of courts. If we look at its website, the society has this byline:

The Law Society of Tasmania is a peak industry and statutory body that has two major functions. The first is to regulate legal practice in the State of Tasmania. The second is to provide services to its members to assist in maintaining high standards of practice in the Tasmanian legal profession. The Law Society of Tasmania represents and upholds the independence of the Tasmanian legal profession, and advocates for a fair and just legal system for all Tasmanians.

So, we have the peak industry and statutory body governing the legal profession of Tasmania saying that whilst my proposed amendment would be an improvement, the bill itself should not be passed: the very definition of damning with faint praise and a salutary comment for us to consider. Our armed forces served to maintain our freedoms that we all have today. We don't have to look far even today to see the impact of draconian, autocratic governance. I can fully understand the frustration in seeing wilful damage on sacred memorials. These are central places that acknowledge the sacrifices made by so few for the benefit of so many.

However, people are only human; we are imperfect, we're fallible and we make mistakes. We always will, and our court system is best placed to make a judgment that's most relevant to the circumstances of a case. Let's give them that opportunity, and that includes extending the penalty.

The bill does reflect the moves in other jurisdictions in increased maximum penalties. However, it goes further by including a mandatory minimum penalty, which is, in my mind, a step too far, especially when it removes the court's discretion to consider what it may see as better alternatives that will give better outcomes to better reflect the expectations of the affected communities. I support the intent of the bill and the potential to improve it with amendment, but questions remain as to the actual need for it in reality. I look forward to hearing the contributions of other members before I decide my part.

[4.59 p.m.]

Ms GLADE-WRIGHT (Huon) - Thank you, Mr President. I rise to speak in support of the Police Offences Amendment (Damage to War Memorials) Bill 2026. Across our communities, whether in large regional centres or small towns, cenotaphs and memorials stand as quiet, enduring reminders of sacrifice. They are places where we gather on Anzac Day, on Remembrance Day and in moments of collective and individual reflection. They are not just pieces of infrastructure; they are places of memory, of grief, of pride and of deep respect. When a cenotaph or memorial is vandalised, the harm is not just physical, it is profoundly emotional. It is felt deeply by veterans and by their families and by the broader community. These acts strike at something far greater than just stone or bronze; they disrespect the legacy of those who served and those who did not return. Yet too often when this damage occurs, the cost of repair does not fall on those responsible; instead it is borne by local councils or RSL sub-branches and organisations that rely heavily on community goodwill, donations and volunteer effort. That is simply not fair.

This bill addresses that gap in a practical way. It does not create a new offence. It does not expand powers unnecessarily. What it does is bring damage to war memorials into the existing compensation framework and applies a clear and well-established principle that those who cause harm should be held responsible for the cost of repairing it. This is not about punishment for its own sake; it is about accountability. It is about ensuring that when harm is done, responsibility sits with the offender and not with the community.

From a community perspective, this reform matters, and I do want to acknowledge the advocacy behind this reform, including the voices of my local RSL groups who have raised this with me, and the impact that these incidents have, not just financially but also emotionally. Their message is that they are not asking for new layers of bureaucracy or complexity; they are asking for workable solutions, and that is exactly what this bill delivers.

But I do also take this opportunity to encourage the government, alongside the measures contained in this bill, to consider how restorative justice principles can be more deeply embedded across our justice system. Restorative justice focuses on repairing harm, supporting accountability and giving victims a voice, and creating opportunities for meaningful resolution where appropriate.

Evidence from jurisdictions that have adopted restorative approaches shows that they can encourage offenders to take responsibility for their actions and help reduce reoffending. While there will always be a need for traditional justice processes, restorative justice offers an important complementary pathway that recognises that true justice is not only about punishment but also about healing and rehabilitation. I believe there is significant value in exploring how restorative practices can be expanded and strengthened in Tasmania, and I call on the government to work with victims, community organisations, First Nations communities and the justice sector to identify further opportunities for their use. So, with that, I commend the bill, because it reflects a simple and widely understood value that acts of vandalism against places of deep cultural and historical significance should carry real consequences.

[5.03 p.m.]

Ms O'CONNOR (Hobart) - Thank you, Mr President. I rise today to speak on behalf of the Greens on the Police Offences Amendment (Increased Penalties for Damage to Tasmanian War Memorials) Bill 2026. At the outset, I'll put on the record our unequivocal condemnation of vandalism or destruction of war memorials, these sacred places in Tasmania. We acknowledge the pain and the anger that damage or defacing of war memorials, intentional or otherwise, can cause to individuals, the families of veterans, and in the broader community.

The Greens have enormous respect for the Returned and Services League of Tasmania, and when they make a request we consider it very carefully, which is why we sought to have passed by the parliament legislation to protect the sacred ground of the Cenotaph and the sight lines of the Cenotaph, which are part of its cultural heritage, from the stadium, and I remind honourable members that the RSL, during those briefings on the stadium, described what the stadium would do to the sacred ground of the Cenotaph as immoral.

Ms Webb - Talk about desecration.

Ms O'CONNOR - Well, I was going to say, it is arguable that the single greatest act of vandalism towards a war memorial in Tasmania is state sanctioned and taxpayer funded and in

progress as we speak. If honourable members are going to get up in here and talk about how important it is that we listen to the RSL, I will be thinking about how they voted last December.

Mr President, we do however have very strong reasons not to support the bill before the House today. The second reading speech in the House stated:

Tasmania already has an offence for interference with war memorials under section 37AAA of the *Police Offences Act 1935*. However, the current penalty framework is limited.

The second reading speech went on to say:

This means the law does not always provide a meaningful deterrent in practice, nor does it ensure that those responsible for damage are required to repair the harm they have caused.

In actuality, Tasmania currently has two offences for interfering with a war memorial: the *Police Offences Act 1935* summary offence of interference with war memorials, which this bill amends, or seeks to amend, and the *Criminal Code Act 1924* interference with war memorial or war memorial area indictable offence. The maximum term of imprisonment for the police offences summary offence is 12 months, and the maximum term for offences under the Criminal Code is 21 years. I will get to this a little bit more later. As well as a maximum penalty of 21 years, the Criminal Code offence in particular already has the penalty options proposed in this bill.

In relation to these two offences, it's quite typical to have a police offences summary offence to deal with lower-end offending and a Criminal Code indictable offence to deal with more serious offending. The principal effect of this bill is to make the penalties for the lower-level summary offence much closer to the penalties for the indictable offence, while still leaving the summary offence as a summary offence - that is a trial without a jury.

Mr President, while New South Wales recently passed amendments providing for seven years imprisonment for similar crimes and offences, this was actually the introduction of a specific indictable offence in their *Crimes Act 1900*, which is their equivalent of our *Criminal Code Act*. Their summary offences' maximum term of imprisonment of two years was unchanged. This bill is clearly a significant misapplication of New South Wales' laws. They introduced an indictable offence as they did not have a specific one, which we do already. We already have an indictable offence with a maximum term of imprisonment three times higher than was introduced in New South Wales. The fact of the matter is we already have both a summary and indictable offence to deal with this issue in this bill that's been brought forward today. The indictable offence has a good deal higher term of maximum imprisonment attached to it.

This bill is proposing that a summary offence - that is, I will remind everyone again, a trial without a jury - could lead to imprisonment for a term of up to seven years in prison. After a trial without a jury. Three years is the maximum term of imprisonment for any other offence under the *Police Offences Act*. In the other place, the Greens' second reading stated that this is typically the maximum term of imprisonment that can be imposed for a summary offence in Tasmania. The member taking carriage of the bill in that place claimed we said there were no other summary offences with greater jail terms than three years.

We didn't say that. We claimed the statement was false and identified a few offences where a maximum penalty of four years exists. The member, the honourable member for Bass in the other place, misquoted the Greens in his rebuttal and I'd argue strongly that the claim that three years is 'typically' the maximum sentence is correct and an entirely fair claim, which is why we made it. A select few offences may exceed this by a year, but that doesn't alter the fact that three years is 'typically' the maximum sentence for a summary offence. It doesn't change the fact that seven years unjustifiably and grossly exceeds other summary offence penalties.

Also proposed is a minimum penalty unit penalty. Our member for Lyons, in the other place, stated that as far as we can determine, there is no other example in Tasmanian legislation where a minimum penalty is stipulated. The member for Bass identified the *Road Safety. (Alcohol and Drugs) Act 1970* as an example, which is correct and we take that as a fair point. Again, though, our member appropriately qualified her claim. I'm advised that this act did not come across our radar, as the construction of the language of this offence materially differed from the language in the bill. Nonetheless, we cautiously use the language as far as we can determine.

The bill also provides that a community correction order may be made, an order to pay for property damage, and the very broad 'such other sanctions, and ... such other orders, as the court considers appropriate' provision.

The *Sentencing Act 1997* already provides for a community correction order to be issued for an offence, and the relevant section dealing with property damage also applies already to the indictable offence, just not the lower-level summary offence. At this point I'd like to revisit the claim from the honourable member for Bass in his second reading in the other place:

This means the law does not always provide a meaningful deterrent in practice, nor does it ensure that those responsible for damage are required to repair the harm that they have caused.

The law does in fact provide for this; it provides for just this. This is a most regrettably disingenuous bill we have been presented with. Specifically, section 67 of the *Sentencing Act 1997*, which is the section that this bill relies on, already applies to the Criminal Code offence of interference with a war memorial or war memorial area. I will note here, as was noted in the other place, that the Criminal Code offence and provisions for repaying damages were introduced by this government in 2014. They're fully aware of this.

The final matter is the proposed very broad power of 'such other sanctions, and ... such other orders, as the court considers appropriate'. This, we would argue, is quite difficult to interpret. It's quite loose legal language. We cannot find any such broad power in any legislation in respect of an offence, and if the honourable Leader for the Government has such an example, I hope that it can be brought forward.

In the other place we asked whether this would be interpreted to be restrained to the existing powers of the court, and this wasn't answered. In his summation, the member for Bass argued that this bill was not drafted by him, it was drafted by experts who understand the issues involved. There's no doubt that the Office of Parliamentary Counsel (OPC) would have drafted this bill, but their expertise is in drafting, not in the subject matter, or necessarily in legislation.

It's a really misleading answer from the member for Bass to say well, it's all fine because it was drafted by OPC.

Ms Forrest - Following drafting instructions.

Ms O'CONNOR - Well, exactly. The member provides drafting instructions to the Office of Parliamentary Counsel; the Office of Parliamentary Counsel may well have said: 'Actually, this is already captured, as both a summary and indictable offence, do you want to have another think about this?' They may have said the bill was unnecessary, or harmful, but it is open to any member who gets advice from OPC about drafting to say: 'Well, thank you for your advice, I'm asking you to draft it anyway, and we'll leave it to Parliament to work that out.' What I think has happened is that Mr Ferguson has ignored the advice from OPC, which would have detailed some of what I've laid out here today, and continued to pursue his own political agenda.

We regard this piece of legislation as legally reckless and quite unnecessary. It's a highly political piece of legislation, and it's really regrettable that the RSL has been captured in this, out of their deep and abiding commitment to the protection of our sacred war memorials.

I want to reiterate as strongly as it's possible to do so that an indictable offence under the Criminal Code already exists. It does everything this bill purports to do other than the undefined additional sanctions, which remains unclear as to what they would achieve. What this bill largely does is make our lower-level summary offence closely resemble our higher-level indictable offence, but still not require a trial by jury. The possibility of a miscarriage of justice here is very significant.

Just to be really clear, while we do not support this bill for the reasons outlined, I will put on the record again our unequivocal condemnation of vandalism or destruction, intentional or incidental, of war memorials in Tasmania. We have existing offences for interfering with a war memorial and, as I've outlined, they already exceed those of other jurisdictions. It is a mark of a government completely lacking in seriousness and self-respect that they have allowed this bill to be progressed. To be clear, we are not condoning vandalism of war memorials. We are opposing this bill because it is a significant misapplication of the law and has significant potential for miscarriages of justice, and anyone who believes that increased penalties will deter people from doing the wrong thing needs to do the most basic of research. They never have and they never will. It just makes some politicians feel better to increase penalties.

So, it's very unfortunate that this overtly political bill has advanced to this Chamber. If it passes today, I think it will send a very unfortunate message that under this government no bill is too unjustifiable, disingenuous or reckless for the Parliament of Tasmania to refuse to be politically pressured into passing. I respectfully urge this Chamber, as it often does, to again show more courage and reason than the other place, and with those words, I encourage honourable members to understand that this is a misapplication of the law. It repeats the provisions within existing statutes, it could lead to significant miscarriages of justice, and it's got all the hallmarks of a highly political piece of legislation. I encourage my colleagues in this place to reject it.

[5.18 p.m.]

Ms ARMITAGE (Launceston) - Thank you, Mr President. I'd like to acknowledge the member for Bass and also the minister for Police, who's only just left in the back of the

Chamber. I thank the honourable Leader for bringing forward the bill and I welcome the opportunity to speak on it. I believe it's important that we provide on the record the emphasis our communities place on war memorials and why it's necessary to deter vandalism and properly penalise those who damage them. As the Leader mentioned, war memorials are not just physical objects; they possess an unspoken symbolism that gives us an opportunity to reflect, show gratitude from communities, remember the past, and imagine a future without violence. I think we all know how many people now turn up to our Anzac Day and other ceremonies, particularly children, and it's great to see so many actually come along and appreciate what has gone before.

It's for these reasons that war memorials possess a sacred quality making vandalism of them much worse. Damage done to a war memorial is symbolic of the damage it does to the fabric of the community. Harming the monument itself harms those who care for it and find meaning in its message. I understand that the purpose of this bill is threefold: firstly, to increase the maximum number of penalty units for the offence from 25 to 500, or a term of imprisonment not exceeding seven years; secondly, to provide that where reasonable in the circumstances, a court is to make a community correction order requiring the offender to perform community service in the community where the offence occurred; and thirdly, to ensure that those responsible for causing damage are ordered to pay for that damage at the point of conviction.

Committing vandalism against these symbols does deep social and spiritual harm to our communities. This bill sends a message that we take this extremely seriously. If a person does vandalise a war memorial, you will be found out, you will be penalised and you will understand just how deep and serious harming a memorial really is. I do wish to acknowledge the hard work of the member for Bass Michael Ferguson, for taking this bill through the other place. I'd also like to acknowledge Peter Williams of the RSL northern Tasmania and John Hardy, the CEO of RSL Tasmania, who has just written to us recently, who I know care extremely deeply about the wider RSL community, and they work very hard to make their lives better. I also note that there are several amendments proposed for the bill and I look forward to debate on them.

[5.21 p.m.]

Mr HISCUTT (Montgomery) - Thank you, Mr President. I too note the member for Bass Michael Ferguson in the House today. This is a very short bill, so I'll try to keep my contributions short. Firstly, I acknowledge that this bill is a private members' bill by the member for Bass, Michael Ferguson, from the other House. I thank him for bringing the issue to the table. Our forebears and our contemporaries went and continue to go to war and many never return. Now, of all times, when war in the Middle East is possible and wars are continuing around the world, it is important that we debate this bill.

Firstly, let me speak to the intent of the bill. To me, this is intended as a deterrent as well as punitive. There is much talk about a mandatory minimum fine being too harsh. Let me remind the House that the fine is not mandatory; no-one is forcing an individual to take such actions that place themselves in this position that they will be fined. They make that choice of their own free will; there's nothing mandatory about that choice. Neither should this be considered a victimless crime. Some may say, a bit of graffiti on some stone, what of it? However, this is not just some stone or some statue; it is a representation of the sacrifice made to ensure the very existence of this nation. To the people left behind, these are reminders and are deeply personal. To come upon one of these spaces desecrated with demonstrable depravity can and does cause significant harm, potential depression and can reopen old wounds. This should not be allowed. There is a reason that 37AAA already exists as a standalone clause in

the *Police Offences Act 1935*. I received a letter from our local Ulverstone RSL sub-branch, and I'll read some of the passages from it:

When a cenotaph war memorial is vandalised, the harm is felt deeply by veterans and families. Too often, however, the financial burden falls on local councils or RSL sub-branches who must fund repairs through donations and volunteer efforts.

It goes on to say:

From our perspective, this reform matters. It protects community resources, supports local RSLs and reinforces the respect that places of remembrance deserve. We respectfully ask that you support the passage of this legislation without amendment so these protections can operate as intended.

What the bill is seeking to do is strengthen the consequences of these actions. We should all be accountable for our actions and that is the principle of personal responsibility.

I do have some concerns with the bill: the minimum is quite high, at 25 units; this is approximately \$5000 at this stage. This is a large sum that may need to come from those without the capacity to pay such a fee, but I state again: they also didn't need to deface a war memorial either. However, it does give me some comfort that this passed the other place, as I understand it, without division. Do minimum penalties work? Maybe, probably not. Does our community expect that deplorable acts are treated with sufficient severity? Yes. To say that we should not have a minimum penalty gives the impression that if you are not in a position to pay, then you don't have to worry about following the law. Well, I'm not sure I'm comfortable with that. We shall see how many proposed amendments are considered, and I'll be listening carefully to the arguments put forth. I thank the members for bringing those amendments.

Regarding the rest of the bill, I think it is appropriate that if required to do community service, this takes place in the affected community. This is restorative justice at its core. I think the bill gives the courts the discretion to use this as appropriate.

As I have suggested, I will be supporting this bill. I would have been more comfortable supporting it if the minimum fine were lower, but I do feel that a minimum fine could be appropriate in this instance. It's not mandatory to do the actions. I look forward to the continued debate.

[5.25 p.m.]

Ms LOVELL (Rumney) - Mr President, I'll just say at the outset that, as we did in the other place, Labor will support the bill, but I do note that there are some amendments that are being brought to the Chamber for debate, and I look forward to the debate on those and will be considering those amendments. I think there are potentially some ways there that we can strengthen the bill, so I look forward to that debate.

Mr President, as other members have noted, we all have strong relationships with RSLs in our various communities, and I know that we all recognise the work that they do, not only with returned servicemen and servicewomen, but also in ensuring that the legacies of conflict around the world are not forgotten, and the war memorials and cenotaphs and other structures that they have are a really important part of that.

I know for myself in my own electorate, Mr President, I have a very good relationship with the South Arm RSL, and the effort they put into establishing and maintaining their memorials is well recognised in that community. I know how important it is to them. South Arm RSL have a Memorial Park which they established in 2016, and if anyone's been to South Arm, you'll see it as you drive into the community. It's a really beautiful space and we celebrate every year there, or commemorate Remembrance Day and there are also other services throughout the year as well.

I attended an unveiling of a new memorial at the Memorial Park in February this year, where they were commemorating four remarkable Tasmanian-born women who served in our armed forces across more than a century as nurses. There was nursing sister Clare Deacon MM, who served in the First World War; nursing sister Maysie Matilda Young, who served in the Second World War - and two of Maysie's granddaughters were present and participated in the unveiling of her memorial; Colonel Nell Espie, who served in the Vietnam War; and Wing Commander Sharon Bown AM, whose service spanned a lengthy period but included a term in the Afghanistan war. Wing Commander Sharon Bown was present and delivered an address, and her family were there to witness that as well.

It was a really moving service and I know that the effort that they put into researching servicemen and servicewomen, particularly in the local area but in Tasmania more broadly, and then finding ways to remember them and commemorate their service is something that's taken very seriously, and that they spend a lot of time on in the South Arm RSL. It's really appreciated by that community.

I think we all recognise as well that this bill is seeking to address behaviour that's perpetrated by a very small minority of people in Tasmania. I think most Tasmanians - actually, I'm really confident that most Tasmanians would be appalled by the type of behaviour that this bill is intended to address.

The member for Mersey spoke earlier about the absolutely offensive behaviour that we saw at some Anzac Day services just this year. But the reaction that we saw to that behaviour was really heartening and reassuring and shows that this is a matter that Tasmanians take seriously and that they will not tolerate any of that type of thing. I am confident that most Tasmanians would feel that this is something that is in line with their expectations.

I do want to commend in particular the CEO of RSL Tasmania, John Hardy, and the State President, Mike Gallagher, for their advocacy and work on this bill and on other matters as well. I know Mike well, he was a former president of the South Arm RSL as well. I know that he has spent a great deal of his life advocating for returned servicemen and servicewomen, and I wanted to put that on record and acknowledge that.

As I said, Mr President, I look forward to the debate on the amendments and we'll be considering those as they're put, but Labor does support the bill.

[5.29 p.m.]

Ms WEBB (Nelson) - Thank you. Mr President, I rise to make a contribution to the debate on this private member's bill, and at the outset I wish to acknowledge the work that it takes to prepare and present a private member's bill. I do appreciate that effort and recognise the effort undertaken by the member for Bass in the other place to do that. I acknowledge his interest in making an effort in this area.

However, basically I regard the content of this bill at best could be regarded as the equivalent of a piece of quite populist performance art, to be honest. But at worst - and this is what really concerns me - it's unworkable overreach and unnecessary. Despite this being a private member's bill, I think it's still of note that the bill was supported by the government in the other place, and despite the bill's unnecessary duplication of and meddling with provisions already currently on the statute books - this is the same government who periodically announces its waging war on unnecessary red tape, but quite content, apparently, to pass a bill which is unnecessary legislation.

Unnecessary, and I don't say that because of any lessening of people's distress and harm around damage to war memorials - and I'll come to that more later - but unnecessary because we currently have a range of legislated offences and penalty provisions in place in both the *Police Offences Act 1935* and the *Criminal Code Act 1924* for any proven interference or desecration of war memorials and war memorial areas.

Further, as advised by the Tasmanian Law Society, it's arguable certain provisions of this bill in its current form will not be able to be implemented as intended. It's notable that that sort of unworkability that's present in this bill is not surprising because we established in the briefings held on this bill that the member who's bringing it forward did not get legal advice on it as he was having it developed. He did not consult with the Law Society or the legal profession as he was having it developed and brought forward. Perhaps if he'd done so, it could have been drawn to his attention more effectively, if he cared to attend to it, that this is an unworkable bill in some aspects - not least that it's unnecessary, but also it is unworkable.

Critical consideration when evaluating and reviewing - as we discuss ad infinitum in this place - when we're evaluating or reviewing proposed legislation, we ask what's the issue and the problem that we're seeking to address and fix. Then the next question is: is the proposed solution in what we're considering going to work? Is it the best indicated solution?

When seeking to evaluate the identified problem, I'm unconvinced that the mover of this bill has stated a strong evidence-based case. Of course, damage and desecration of war memorials is absolutely abhorrent, it's harmful, it hurts individuals and communities, it is offensive to all of us here and in the community generally. Of course that's the case. But that sentiment and feeling that we all have, that abhorrence that we all hold for that, doesn't equate to there being a problem to solve for which this is then the right answer.

We have not seen a case made for the urgency or the detail of what's presented here. Of course that's not to say - and I do absolutely recognise that, sadly, deliberate damage and vandalism or other interferences of war memorials around the nation and here in Tasmania can and does occur. I acknowledge absolutely the briefings that we've had and the correspondence we've had from the RSL, who of course - representing their members and their communities that we all value in each of our electorates around the state - are keen to see efforts made to reduce the likelihood and prevent damage and desecration of war memorials and those war memorial areas or sites. Of course we share that aspiration. Is this the best indicated way to prevent those activities? Absolutely no evidence to say that it is, zero evidence to say that it is. Zero.

It might feel good for us to be contemplating this and to be supporting it, and to be making statements here about how much we value and support our veterans and our RSL, who support our veterans in our community. But feeling good about that and making those statements isn't

the same as making good, correct law. What we're doing here at heart and at core is making law. This bill proposes law that's unnecessary and unworkable, and I'll speak a bit more about that.

First, though, having acknowledged of course damage and vandalism to war memorials can occur, certainly when thinking about this bill and this topic, I was prompted to recall attending a deeply moving ceremony not quite two years ago, on Remembrance Day in 2024, which was held by the Friends of Soldiers Memorial Avenue on the Hobart Domain to dedicate two new trees to the memory of Second Lieutenant Colin Edmund Alleyne Chalmers and Private James Glass, who were killed in action during the Great War. It was a deeply significant and moving ceremony, Mr President, with the trees and the plaques dedicated during that ceremony by the then-Governor, the Honourable Barbara Baker, and witnessed by not just some of us who were there as participants from the community, but also descendants of the two soldiers who are being memorialised with the trees, and some of those descendants had travelled from interstate to be there and be part of that very special memorialisation ceremony.

Members may remember then the shocking incident, which was barely six months later in June 2025, when it was discovered that 19 bronze plaques had been stolen from that very same Soldiers Memorial Avenue Remembrance Walk. It was an unfathomable, utterly disrespectful act, an act that had devastating impact on people associated with that avenue. It was dispiriting and heart-wrenching for people who are connected to the soldiers who are memorialised there, for the wonderful group - the Friends of Soldiers Memorial Avenue group - that attend to and develop and continue to care for that memorial. Absolutely devastating. Fortunately, in that instance, it appears the culprit was shamed by the public outcry that had occurred and they experienced a change of heart, and the 19 plaques were found in a bag outside a government department office in Rosny Park. There were some minor damage and restoration needed with some reinstatement into place, but that was a positive outcome, at least in that sense, notwithstanding the hurt and harm caused by the initial act.

I highlight that instance just because I do recognise such absolutely abhorrent actions. We can all recount stories of more of them potentially - having said that, we don't have firm data about exactly how many instances we're talking about here or any demonstrated trend in increasing instances. Antisocial behaviour and these sorts of abhorrent acts do occur. Had that culprit been identified from that soldiers memorial theft I spoke about - and I'm not sure whether they were or not, to be honest - but had they been identified and arrested, I would expect that appropriate charges would then have been considered either under the existing summary offence charges provided for in section 37AAA Interference with war memorials in the *Police Offences Act 1935*, or under the *Criminal Code Act 1924*, section 273A Interference with war memorial or war memorial areas. They were available for that to occur and if that person or people were caught, I imagine that's what they were charged under.

Which gets us to the question of whether the proposed changes are necessary or not. Are they anything beyond something that makes us feel good and warm inside here? I recognise that the intent of the bill before us is not to introduce another offence but to increase the penalties for the current existing offence under the *Police Offences Act 1935*, while also seeking to amend the definition of section 67 of the *Sentencing Act*. However, when we get to that detail, that's where it becomes problematic.

Part 2 of the bill seeks to amend section 37AAA of the *Police Offences Act 1935*. The act was amended in 2014 to introduce this provision to include a specific offence in that act.

That was important recognition, I suspect, at that time. I wasn't in this place when that came through, but I imagine there was a lot of discussion about the value of specific recognition of the kind of harm and impact that this sort of offence has. We introduced that in 2014, despite there already being existing similar offences under the Criminal Code and in the *Police Offences Act*. When that was inserted, it came along with particular penalties, financial and imprisonment penalties.

The bill here seeks to increase the range of punishment from what's currently available. Currently, we've got a fine not exceeding 25 penalty units, or imprisonment for a term not exceeding 12 months. What we're proposing to do with this bill is significantly increase that to a penalty not less than 25 penalty units, and not more than 500 penalty units, and then (b) is imprisonment for a term not exceeding 7 years. For the current period from 1 July 2026 to 30 June 2027, the value of 1 penalty unit is \$213, which means that current legislated maximum penalty of 25 units presents a range from \$0 to \$5325. The new penalties proposed by this bill would see that increase from \$5325 to \$106,500.

To place that upper figure there into context, according to the Australian Bureau of Statistics, a median annual salary in Tasmania is approximately \$67,600, before tax, based on the ABS median weekly main job earnings of \$1300 per week for Tasmanian employees. So, this proposed new maximum fine will be almost 1.5 times more than the average Tasmanian salary. It's arguable a 20-fold increase in the maximum fine is not proportionate.

However, my main concern is actually the shift proposed by the bill to legislate a mandatory minimum fine. To reiterate, the current legislated provision provides magistrates with the discretion which all experts regard as important, the discretion of magistrates. Under the current arrangements they can impose any fine between \$0 and \$5325. The bill seeks to limit that full spectrum of discretionary power of magistrates and instead require and constrain them to start from an initial point of \$5325. As we heard from the Law Society, mandatory minimum fines are bad law. That is an absolutely consistent message from anyone you speak to in the legal profession, and any legal academics you will speak to anywhere.

There is no evidence to say that mandatory minimums are a good idea or that they work, and they have absolutely guaranteed, very bad, unintended consequences and other impacts. I'm just going to quote from some notes that were circulated to members following our Law Society briefing that was provided on 25 March, this year. In the notes that were circulated afterwards, the Law Society said in relation to this matter:

It removes the court's discretion when it comes to the level of appropriate fine. Discretion is important because of the endless circumstances in which an offence might be committed, and the endless circumstances of offenders who may be before the court.

This is the principle of discretion for magistrates who are there attending to each individual matter. This isn't about someone can just say 'I can't afford it', and therefore the magistrate lets them off. That is an incredibly simplistic proposition, that is not the case, and it's not why we have discretion here. We have discretion because, as people in the legal profession know absolutely rock solidly, the circumstances that come through a court before a magistrate are varied in the extreme and are always individual to the situation and the people involved - the full circumstances, the full scope of whatever that particular crime or offence has been dealt with is. When I say that, I mean variation of circumstances, not just for the

person who's being charged and brought before the court, but also for the victims involved, for the circumstances around it, all of it. The magistrates are there, we task them with being the experts in dispensing justice, within the scope that we provide in legislation. What we're preparing to do here in this bill, is constrain them from fully doing their job appropriately, presuming that we know best to put a constraint with a mandatory minimum in place, and take away options that are available to them in terms of discretion.

Moving on to the increase in prison terms, as proposed in clause 5(b)(1A) subclause (b). The current legislated prison-term penalty provides for a maximum sentence of 12 months; that's what's currently available.

The bill seeks to increase imprisonment for a term of up to seven years, from 12 months to seven years. This is highly problematic, for a range of reasons. Again, to go to the question of proportionality, it's important to note there are virtually no other offences in the *Police Offences Act 1935* with a potential seven-year sentence of imprisonment. We could quibble and say that there are some that are three, there are a couple that are four; there are none that are seven, I don't believe. Let's be really clear, let's talk about what is typically there in this form of the *Police Offences Act*, currently: the maximum sentence that can be imposed for a very wide range of offences contained in this act currently is typically for a period of three years. That's the maximum that's typically present in this act.

If this bill passes unamended, damaging a war memorial will have a maximum punishment more than double of nearly all other crimes under the *Police Offences Act 1935* - nearly all of them. There's no justification for increasing the maximum sentence far beyond that applied to other offences in this act, knowing that we can also escalate this to be dealt with differently: not summarily but indictable. Instead, at most, it should only be regarded as proportionate with the offence of, for example, some others that have three years as the maximum: stealing with force, consorting, resisting a police officer - all of those risk a maximum of three years' imprisonment. To jump to seven is absolutely disproportionate and inappropriate for this act.

This does raise the question of why the bill doesn't seek to increase the maximum jail time from the current 12 months available to a level that's consistent with other offences in the *Police Offences Act*. Why wouldn't we look for consistency here and, for example, go for three years? That's a threefold increase on what's current. It's absolutely an indication of a step up in penalty, but it remains consistent with the act. Why wasn't that what was sought for here? At least an increase of three years would deliver on the second reading speech's stated aim - this is what was said in the second reading speech: strengthening the penalties for damaging war memorials and war memorial areas - while at the same time it would have been maintaining consistency with other offences in this act.

Which brings us to another serious problem, I think, with this bill, which is the lack of clarity regarding the established distinction between summary and indictable offences. As has been pointed out by the Law Society when they briefed us: currently section 38(2) of the *Acts Interpretation Act* limits offences punishable by imprisonment for a term exceeding three years and which do not specify the offences to be dealt with summarily, that is to say, in the Magistrates Court, then the matter will be treated as an indictable offence by the Supreme Court, which, again, raises the issue of proportionality. The proposed increase of imprisonment from 12 months to seven years saw questions raised by key stakeholders as to whether the

Magistrates Court can deal with the offence due to the proposed penalty amendments that it contains.

According to the Law Society, they had concerns regarding the potentially ambiguous wording of clause 5(1A) regarding whether an offence is to be dealt with as a summary or indictable offence. Since that point of confusion was raised in the context of our briefings by the law society, the government subsequently has circulated further advice stating it is the bill's intention for offences to be dealt with as summary offences in the Magistrates Court under this bill, despite the maximum capacity for seven-year prison terms which would otherwise indicate an indictable offence in most cases.

Ms O'Connor - No jury trial.

Ms WEBB - No jury trial. If this is the case, then it serves to introduce a further significant inconsistency with the *Sentencing Act 1997*. Section 13 of the *Sentencing Act* states that the maximum term of imprisonment a court of petty sessions may impose is three years for a first offence or five years for a second or subsequent offence, as acknowledged in the Police minister's letter dated 15 April to us, which was circulated to members. Upon receipt of that letter, I again sought the informed opinion of the Law Society, which is more than the mover of the bill had done. Since the letter sought to address the questions that the society had raised, I wanted to show the society the government's response and get their further input. According to the Law Society, even should the minister's advice that was presented in the government's letter to us be accepted at face value, it remains:

problematic that it is proposed to give magistrates the power to impose imprisonment for seven years when this is significantly out of keeping with the maximum they can otherwise impose.

Of course, as the member for Hobart has mentioned, part of the concern there is because this is without a jury trial; this is an incredibly long imprisonment sentence that becomes available without the benefit and the appropriateness of a jury trial for such a serious penalty to be contemplated.

It is out of keeping with what would normally be dealt with summarily and again, I emphasise this increase of penalties and potential inconsistencies introduced into our established sentencing statutes and practices are all proposed in the absence of a compelling case that current legislative offences and penalties are inadequate. There's nothing to demonstrate that there's a particular problem that is being caused by inadequacy of our current arrangements. If the stated inadequacy is that crimes still occur at times, then every single law we have in our police offences and probably also our Criminal Code is inadequate, because crimes do still occur at times and offences do still occur. Absolutely tragic as it is, it is not, in and of itself, a reason to bring this sort of response to bear.

Lastly, this bill's clause 5, proposed new subclause (1B)(a) remains unimplementable, particularly should offences be treated as summary. As advised by the Law Society, magistrates do not have the power to order where community service is to occur. I note the minister's April letter to members does not address this apparent problem with implementation of this aspect of the bill. It's silent on it. (1B)(b) actually is consistent with current summary offences but duplicates current powers magistrates already have; hence it's unnecessary. In summary, I go back to my threshold evaluation questions: has the case been made that there is a current

problem, both in an established increase of this particular offence and inability of our current laws to respond adequately?

This consideration raises further questions which are now put to the government. Since the original offence for interfering with war memorials was introduced into the *Police Offences Act 1935* in 2014, my first question is: how many people have been charged with that summary offence in total, and when? How many were convicted and what were their sentences? How many of those charged with the summary offence have been repeat offenders? How many people have been charged under an indictable offence for the crime of interfering with a war memorial since 2014?

How many sentences have been made on an indictable offence for the crime of interfering with a war memorial since 2014? What were those sentences and how many were repeat offenders? Is it correct that if indicted for the crime of interfering with a war memorial currently to the Supreme Court, a sentencing judge has full discretion when determining a sentence, so, not restricted by either a maximum or a minimum penalty? Has anyone since 2014 been committed to the Supreme Court for the crime of interfering with a war memorial? Has there been any appeal in Tasmania alleging that a sentence for interfering with a war memorial was manifestly inadequate? If so, when were such appeals undertaken and what was their outcome?

Anyone who is seriously bringing this bill to us for consideration in a way that wasn't just about capturing a populist imagination and trying to capture community sentiment, which is heartfelt and genuine, anyone seriously bringing this bill would have presented an evidence-based case for it. They would have demonstrated the problem it's trying to solve, they would have presented us with data that supported that, and it would have been part of material presented with the bill. That's what we would expect from a responsible legislator, but as I said, that's not what this bill is providing for us to consider.

Regarding the matter of proportionality, can the government advise why it was determined to increase the current maximum 12-month imprisonment penalty to seven years rather than to three years - consistent with a vast majority of other *Police Offences Act* maximum imprisonment penalties - given that our current laws provide for and recognise the potential need to scale offences from the less serious offence to crimes across both the *Police Offences Act* and the Criminal Code respectively? Upon what evidence or advice was it considered necessary to expand or beef up the Magistrates Court offence here? These questions are integral to answering the threshold question of established problem and appropriateness of proposed solution.

There is one last area of comment which I wish to make before closing.

I recognise the considerable effort made in developing and prosecuting this bill despite my concern about it, as I have articulated throughout my contribution. However, I would urge that equivalent effort should be made by government in investing in education and diversionary programmes and restorative justice models which may tackle the root cause of the antisocial behaviour in the first place rather than continuously amplifying a lazy reliance upon a ham-fisted punitive response not evidence based and which occurs once it's too late and the damage has been done. I fear that once again we're locking ourselves into a narrow and blinkered situation where, despite pre-existing penalties being in place demonstrably having a limited preventative impact of their own, we just blindly increase those penalties with no

evidence to suggest that that will deliver an outcome which so many in our community so genuinely and sorely seek.

Ms O'Connor - Because there is no evidence.

Ms WEBB - Absolutely not. To be very clear, this bill and what's in it is most certainly not a restorative justice approach. I encourage members to better inform themselves if they think it is and to do some research about what that actually means, what a restorative justice model actually looks like when it's implemented and brought to bear.

Mandatory minimums and increased penalties in false hope of deterrence are the exact opposite of a restorative justice approach, in fact. And the fact that the government shows no inclination or commitment to putting anything like a restorative justice approach in place here absolutely belies any suggestion that they have a commitment to delivering the outcome that's desired to prevent this occurring in the first place and deal with it effectively if it does. By effectively, what I mean is to try to ensure that repeat offending doesn't happen and that healing can occur around the act that's being committed. None of that is delivered by this bill. None.

We see this limited approach instead. Purportedly the pinnacle of a law-and-order lens being relied upon repeatedly across our statutes by this government, despite the unequivocal and mounting evidence from criminologists and others working in this field that punitive action on its own, within a restorative justice vacuum, does not work.

On that, the RSL would absolutely, I think, support a restorative justice approach. It became a point of discussion in our briefings. They want this to be prevented from happening. They want genuine healing to occur if there are instances when it does. Absolutely none of that's delivered by this bill.

I note the bill's second reading speech does also acknowledge that it is beyond the scope of the bill to seek to address antisocial behaviour at memorial sites, noting it 'may warrant further policy development and consultation in the future'.

Well, of course, Mr President, of course it warrants that. This government could readily demonstrate a real commitment to that, but the government has, since 2014, since the current penalties were introduced into the *Police Offences Act 1935*, absolutely failed to prioritise any other measures, any others to tackle the source of antisocial behaviour of this kind. Even the member who brought this bill to the other place at times has been the minister responsible for police, for example, and could have presumably been an advocate for those sorts of measures and that has not occurred.

A point I want to bring here as I can come towards concluding is it's also important for us to acknowledge in this debate that when we hear that war memorials and war memorial areas are described as sacred sites, I agree, and they commemorate loss which has occurred in conflicts external to our national shores. It's incredibly important that we do commemorate those losses and hold them in our hearts, and support families and those loved ones who are particularly attached and have particular significance for war memorial sites. However, in addition to that, I can only hope and urge that similar sentiment and focus is expanded in our government, in our community, in this parliament to also include those historic internal conflicts in this place, Lutruwita/Tasmania, which in the main are not acknowledged by equivalent memorials or acknowledgement, but which are just as strongly held, felt and

honoured by our Tasmanian and Australian Aboriginal communities. We do not see the same reverence, value and care taken around memorialising those sites with and for the Tasmanian Aboriginal community.

To close my contribution, I reiterate the following points, notwithstanding and taking absolutely nothing away from the heartfelt sentiment which we all share and support about the value, and the absolute importance of protecting our war memorials, our war memorial areas, our commemorative processes, in relation to our veteran community.

I remain unconvinced of the extent to which the problem exists which this bill purports to address. Further, I'm deeply concerned that the bill would introduce unnecessary and serious inconsistencies, without other relevant statutes and broader jurisprudence approach as per that strong and clear advice from the Law Society of Tasmania. Although I appreciate the minister's subsequent efforts to address the concerns that were raised by the Law Society of Tasmania, that the government forwarded through to us, I note that, significantly, despite the subsequent explanation, the society stands by their analysis and assessment of the bill's problematic elements. It's incumbent upon government and this Chamber, to take such expert advice seriously when informing ourselves of the merit or otherwise of proposed legislation we're charged with reviewing and considering. I'm hopeful that we will receive informative responses to a series of questions that I and others have raised during the debate.

Lastly, I would acknowledge the member for Mersey, who's indicated he's got some amendments for this bill, one amendment. I've also circulated some potential amendments should the bill pass to the second reading, which, on indications thus far, looks like it will. I do mention that I have amendments. However, I've made it fairly clear I don't support the bill in its current form, and even if all proposed amendments are made, I'm still not able to confirm that I would support this bill. It's unnecessary, it's actually an emotive exercise for people in this place and the other place. Of course, we all feel good to get up and say really warm and important things about the RSL, our veteran community, the important war memorial sites that we have in this state. But this bill does nothing to deliver on the outcomes we would want to see for that community and those sites. I think that's beyond a shame, I think it's actually harmful.

[6.03 p.m.]

Ms THOMAS (Elwick) - I rise to make a brief contribution in support of the Police Offences Amendment (Increased Penalties for Damage to War Memorials) Bill 2026. I acknowledge, as other members have, the member for Bass, Mr Ferguson in the Chamber tonight, and I thank him for his efforts in preparing this bill.

Mr President, the decision to support this bill was pretty simple for me. I do take our role here as legislators very seriously, and I appreciate the contributions of other members. I accept the specific concerns they've raised in relation to the principles of good and correct law, as the member for Nelson referred to it. Members are right to consider these principles. However, our country was built on the back of the sacrifices returned servicemen, women and animals made for our country. In 1914, when Britain declared war on Germany, Australia answered the call. From Glenorchy, my electorate, and the surrounding areas, hundreds of men enlisted. Women stepped forward through local Red Cross branches, organising fundraising efforts and supporting those at home. There was a deep sense of duty and a powerful spirit of community. In 1914, Glenorchy's population was just 3731 people. Of those, 328 men enlisted. Sadly, 54 never came home. Many families sent more than one son to war. The Barwicks, the Hallams,

the Martins, the Terrys - names that are still part of my community today, and some families paid an even heavier price. The Laughter family from Collinsvale lost two sons. From Claremont alone, 61 men enlisted, 18 of them died: the equivalent of around 9 per cent of the local population at the time. To put that in today's terms, it would be like losing 775 young men from our community; 775 men just from the suburb of Claremont alone. This loss is almost impossible to comprehend. Behind every number is a face, is a story.

One of those stories is that of Len Millhouse from Moonah. Len was just 15 when the war began, underage but determined to enlist. When asked why he joined, he later said, 'Because I was silly,' but his story suggests something deeper than that. One day when he was riding his bike home from work, a woman called out to him. She said, 'Instead of trying to knock young women over, you should be at the front, fighting.' That moment stayed with him. Despite his parents' reluctance, Len enlisted and began training at Claremont. When he was given just 48 hours' notice before departure, he walked all the way home to Moonah to say goodbye. He sailed to Melbourne on what soldiers nicknamed the Old Rotten Banana. Speaking of these travels, he later recalled:

The ship rolled and buckled and we were packed in like sardines in hammocks, squeaking and squawking all night.

Len was one of the fortunate ones, relatively speaking. He served in France, suffered shellshock and was even visited by the King in hospital. Then, in early 1919, he returned home. His most cherished memory was arriving back at Hobart's Ocean Pier, where his parents were waiting with their horse and cart.

We've heard contributions just now that this is an emotive issue, and it is; it is an emotive issue. Yes, we are here to consider the principles of good and correct law, but in some ways that is subjective as well, and it is dependent on a whole range of issues. We don't make law in this place just based on the principles of good law. We consider a whole range of factors in making our decision. In every decision we make, there's a complex set of factors that we, as elected members, consider: different people's views -

Ms O'Connor - Yes, like judges and juries.

Mr PRESIDENT - Order.

Ms THOMAS - Different people's views are always important to consider and respect and, certainly, that's what our Anzacs would have wanted: respect for different views. That's what we owe to them. We owe it to them to listen and respect and accept difference of views. That's what they would have wanted from us and that's what we owe them. I'm confident that the majority of people in my electorate would not want me to get hung up on the principles of good and correct law with regard to this bill. I'm confident the overwhelming majority of people in my electorate would agree with the intent of this bill and want me to support it. They would want me to do whatever I could to send the clearest possible message that damage to war memorials is not acceptable. They would want me, at every opportunity, to convey my gratitude and respect to our returned service people on their behalf. That's what supporting this bill does and that's why I'm supporting this bill. For Len Millhouse, for the Barwicks, for the Hallams, the Martins, the Terrys, the Laughters, and all other families who suffered the loss and damage of war, I support this bill.

[6.08 p.m.]

Ms RATTRAY - Thank you, Mr President. I just acknowledge all members' heartfelt contributions to this important bill that's before us. Also I'd like to add my acknowledgement to the member for Bass Mr Ferguson, in our Chamber tonight.

I'll just go through them as members spoke. There was probably an overlap in some of the answers so I'll just start at the beginning. In response to the member for Mersey, the government welcomes the member's support for the objectives of the bill. However, the government does not accept that the reforms are unnecessary. The bill was introduced in response to community concern following vandalism at the St Helens Cenotaph and reflects a clear community expectation that war memorials should receive a higher level of protection under the law.

The government considers that damage to a war memorial is not equivalent to ordinary property offending, because such conduct causes harm beyond the physical damage itself. It offends places established to commemorate the service and sacrifice of veterans and holds particular significance for local communities, ex-service organisations and families.

The government agrees that education and restorative justice have an important role to play in reducing reoffending and fostering respect for Tasmanian war memorials. Importantly, the bill already incorporates a significant restorative justice element by enabling courts to require offenders to undertake community service in the community affected by the offence.

This reflects the government's view that offenders should not only be punished, but should also make a positive contribution to the community whose memorial has been damaged. However, education and restorative justice measures are not alternatives to an effective statutory penalty regime. The government's position is that both approaches are necessary. Education may help prevent offending and restorative measures may assist in repairing harm once offending has occurred, but there must also be meaningful consequences for conduct that vandalises or desecrates war memorials.

The purpose of this bill is to recognise that offences against war memorials are not ordinary acts of property damage. War memorials occupy a unique place in our communities as sites of remembrance, commemoration, and respect for those who served and sacrificed for Australia. The bill reflects the view that conduct which desecrates or damages those war memorials warrants a clear and consistent minimum consequence.

Again, on restorative justice: the member for Huon noted that the requirement that community service be undertaken in the community where the offence occurred is a deliberate restorative justice measure. It is intended to ensure that offenders make a tangible contribution to the community that was directly affected by the damage to the war memorial. Removing that requirement would weaken the connection between the harm caused and the restorative action taken by the offender. The bill's explanatory policy intent is that offenders should give back to the community whose memorial was vandalised.

The honourable member for Hobart noted indictable offence and maximum imprisonment are available where damage is caused to a war memorial. However, that does not mean this bill is unnecessary or inappropriate. The purpose of the bill is not simply to create the possibility of a severe penalty; rather, it is to establish a specific offence and sentencing framework that explicitly recognises the unique significance of war memorials and the

particular harm caused when they are vandalised or desecrated. Existing property-related offences are directed at damage to property generally. This bill recognises that damage to a war memorial carries a broader social and symbolic impact, and the government is not relying on New South Wales to justify this bill. The justification for the bill is found in Tasmania's own experience and the community expectation that war memorials, as places of remembrance and sacrifice, warrant greater protection than is provided through ordinary property offences. The fact that other jurisdictions have acted -

Ms O'Connor - So, that's why there are Criminal Code provisions for it?

Ms RATTRAY - in this area simply demonstrates - I didn't interject.

Ms O'Connor - I would have been fine if you had.

Mr PRESIDENT - Order.

Ms RATTRAY - have acted in this area simply demonstrates that this is a legitimate and recognised policy response, not that Tasmania is obliged to follow another state's model.

In relation to summary offence trial without a jury, the government does not accept that the proposed maximum penalty is inappropriate merely because the offence is dealt with summarily. It is important to distinguish between the maximum penalty available to a court and the sentence that will be imposed in the ordinary case. A maximum penalty is intended to reserve capacity for the most serious examples of offending. It is not a guide to the sentence that should be imposed in every case, nor even in a typical case. Courts retain discretion to impose a proportionate penalty based on the facts before them.

For examples of wide discretionary powers to make orders as appropriate in circumstances, section 7 of the *Sentencing Act 1997* sets out the sentencing options available after a finding of guilt. Importantly, it does not create a closed or exhaustive list of penalties. In addition to listing the principal sentencing orders - imprisonment, suspended imprisonment, community correction orders, fines, rehabilitation program orders, adjournment with undertakings, discharge and dismissal - section 7(1) provides that a court may impose any other sentence, or make any order, or any combination of orders, that the court is authorised to impose, or make by this act, or any other enactment. Section 8 expands that further by allowing the court to make combined sentencing orders, rather than choosing a single sentencing option. The court may impose a combination of sentencing responses where authorised by the act. The significance of section 8 is that it recognises sentencing as a nuanced exercise. A court is not forced into an either-or choice between imprisonment, supervision, fines or rehabilitative measures. Instead, it may combine orders to achieve multiple sentencing purposes, such as punishment, deterrent, rehabilitation and community protection.

Much has been said in this debate about penalties, but this bill has never been about punishment alone. It deliberately brings together deterrent, punitive and restorative elements. It ensures meaningful consequences for a person convicted of interfering with a war memorial, while retaining substantial judicial discretion over the overall sentencing response, and through community service in the affected community, where reasonable. It provides an opportunity not simply to punish an offender but to build understanding of the harm caused, and restore something to the community that was offended.

In response to the honourable member for Nelson: what's the problem that this bill is solving? The problem is that the existing framework does not always provide courts with a sufficiently flexible range of responses to address misconduct, deter future breaches and remedy harm. The bill responds by providing the court with a broader suite of sanctions and remedial powers, enabling them to tailor orders to the circumstances of each case. This delivers a balanced approach that is deterrent, punitive and restorative, while ensuring that responses remain proportionate and subject to judicial oversight.

In regard to workability and legality of this bill, including the interaction with section 13 of the *Sentencing Act*, the member for Nelson has described this bill as unworkable. The government respectfully rejects that characterisation. The concerns about section 13 of the *Sentencing Act* and the summary jurisdiction of the Magistrates Court were taken seriously. The minister for Police sought legal advice on those specific claims. The government's position has been provided to members, and that was mentioned in contribution. That advice confirms that the proposed maximum penalty is not inconsistent with section 13 and that the offence will remain a summary offence within the jurisdiction of the Magistrates Court. The bill expressly provides for that summary treatment. Of course the Law Society's contribution is respected, which predated this further evidence. Questions were raised, legal advice was sought, and those questions have been answered. This bill was professionally drafted, and the government is satisfied as to its legal operation.

Just in regard to the minimum penalty, it's been suggested that the minimum penalty removes judicial discretion. The bill does not dictate the penalty that must be imposed in every case. It preserves the court's role in assessing all the facts and circumstances of the offending and the offender. What the bill does is make clear that deliberate damage to a war memorial is a uniquely serious offence that should attract a meaningful consequence. Courts retain their discretion in determining the appropriate sentence, but they do so within a framework that reflects the significance of these places of remembrance and sacrifice.

In regard to proportional justification for increasing fines to seven years - I don't think it's a fine - it's been argued that no other offence in the *Police Offences Act* carries a maximum penalty of seven years imprisonment.

Ms Webb - No, that wasn't argued.

Ms O'Connor - Who argued that?

Ms Webb - No-one argued that, just to be clear.

Ms RATTRAY - I will just leave that bit out, Mr President. I don't want to start a war. War memorials are not ordinary public assets. They are places of remembrance that honour the sacrifice of servicemen and women. The bill intentionally treats their discretion as a distinct and more serious form of offending. The conduct should warrant greater denunciation and deterrence. A maximum penalty does not dictate the sentence imposed in any particular case. It simply ensures that courts have sufficient capacity to deal with the most serious examples of offending, while retaining discretion to impose a proportionate sentence in less serious matters. The fact that the penalty is higher than those elsewhere in the *Police Offences Act* is not a flaw in the bill, it is a reflection of the unique significance of the conduct the bill seeks to address.

In regard to the original offence being introduced in 2014, and how many people have been charged with that offence, how many people were convicted, and how many people have been charged with an indictable offence, et cetera, I'm advised that there have been no sentences in the Supreme Court for section 273A - crime under the *Criminal Code Act*. For section 37AAA of the *Police Offences Act* heard in the Magistrates Court, this offence commenced on 19 December 2014 and since then there have been three defendants in total - one adult and two youths. The adult defendant had two cases that involved offences under section 37AAA.

Much has been said in this debate about penalties, but I want to reiterate that this bill has never been about punishment alone. It deliberately brings together deterrent, punitive and restorative elements. It ensures meaningful consequences for a person convicted of interfering with a war memorial while retaining substantial judicial discretion over the overall sentencing responses and through community service in the affected community, where reasonable. It provides an opportunity not to simply punish an offender but to build understanding of the harm caused and restore something to the community that was offended.

Mr President, I might just check with my advisers to make sure that's the complete version of responses.

Thank you, Mr President. I'm always mindful of the time here, but we have decided that we will move into Committee. That's the will of the House, and we will get through this and then we'll adjourn for the night.

Bill read the second time.

**POLICE OFFENCES AMENDMENT (INCREASED PENALTIES FOR
DAMAGE TO TASMANIAN WAR MEMORIALS) BILL 2026 (No. 5)**

In Committee

Clauses 1 to 3 agreed to.

Clause 4 agreed to.

Clause 5 -

Section 37AAA amended (Interference with war memorials)

Mr GAFFNEY - Madam Deputy Chair, I move the amendment -

Page 5, paragraph (b), proposed new subsection (1A), paragraph (a), after 'a penalty not'.

Leave out 'less than 25 penalty units and not'.

Madam Deputy Chair, in speaking to the amendment, I'd like to reflect on my earlier - just so I'm aware of the time limit, is it 15 minutes?

Madam DEPUTY CHAIR - Yes, 15.

Mr GAFFNEY - The clock's not going, is it, at the moment?

Madam DEPUTY CHAIR - It is.

Mr GAFFNEY - Just clarifying. So, it is 15?

In speaking to the amendment, I'd like to reflect on my earlier contribution to note at the outset that the Law Society of Tasmania sees the amendment as an improvement to the bill. However, I note the Law Society of Tasmania still does not believe this bill is necessary.

As we've heard, the desecration or wilful damage of a war memorial is a heinous act that brings a great deal of distress to a community. When a suspect is detained, charged and must answer for their alleged actions, it comes down to the courts to determine guilt or innocence. If found to be guilty, it's the court that will pass a sentence based on the circumstances and the nature of the offence. A court will do that based on sentencing guidelines and an unemotional assessment of the case. I would like to think that we can trust the courts to act in the best interests of all sides, and parts of the bill before us do allow expanded sentencing options, especially the provisions to make community correction orders and to impose other sanctions and make other orders a court may consider to be appropriate in the circumstances.

The maximum penalty has been also expanded from 25 penalty units to 500 penalty points, a 20-fold increase that would surely chill the heart of even the most enthusiastic vandal. On top of it comes a new prison term of up to seven years. This signifies to the courts the importance to the community of this situation and offence. So far, so good; however, the new minimum removes completely a court's ability to use its knowledge and experience in determining the most effective sentence. If an offender comes from a relatively well-off background, 25 penalty points won't mean much; but an extended community corrections order and the imposition of other sanctions could give them immediate pause for the thought of a highly appropriate punishment.

The mandated minimum ties the hands of the court. It doesn't mean to say judgment can't impose a 25-unit minimum but can decide on what would be the most appropriate sentence in the circumstances of damages. Going back to my example of an indoor soccer player's mis-kicked ball or basketball or a loose ball knocks an honour board off the wall and it breaks and they're subsequently charged, is a 25-unit mandated minimum penalty an appropriate punishment? I think not. Or a gang of people with too much alcohol make poor decisions one night and they damage a war memorial: no jury, all of those five people will be convicted of the crime, 25 minimum penalty units, \$5000.

The honourable Leader in her response says, oh no, this has lots of flexibility, this has lots of flexibility with lots of things to do, but the minimum is still \$5000. The courts have no discretion over that. What I'm seeking to do is remove that restriction on our justice system, the people who we have in charge of the courts, to appropriate, good decision-making and punishments for the people who commit offences. We are taking that away from them. However we like to look at it, we're saying this is our minimum mandatory sentence for an act. Madam Deputy Chair, if we look to other legislation, particularly section 43 of the burial regulations 2025 on prohibited activities, it describes these offences:

- (a) remove, damage, deface or otherwise interfere with any building, monument, memorial or other fixture or structure in a cemetery.

They are subject to a fine not exceeding 20 penalty units: so, if a young person goes into a cemetery and vandalises a grave or a memorial or whatever in the cemetery, the maximum they can be fined is 20 penalty units. In this piece of legislation that the Law Society does not support, because it takes the judiciary out of an appropriate sentencing structure, we're saying the minimum is 25 penalty units. I suggest vandalism in a cemetery would be equally as high an offence to the family and one that's much more equal to the subject of the bill. When it happens, it causes equal distress in our communities and yet in such circumstances, the law still allows a court the discretion to determine the most appropriate sentence. I urge the honourable members to support the proposed amendment, which still means that it's a \$500 maximum. There still can be, at this stage, seven years in jail, there can still be community work orders; but what it does do is give the judiciary a chance to assess between zero and 25 penalty units based upon the circumstances of what's presented to them. No jury, based upon the circumstances: one ringleader and four associates all get fined \$5000.

We know of certain groups of society that might go drinking, might vandalise something. A lot of those people would not be able to have \$5000, and that's what we're imposing on them. I'm not saying that the judges can't do that. What I'm saying is: we should give our judiciary the right to use their experience, as they do in every other offence that's presented before them. We're actually imposing a mandatory minimum sentence of \$5000 regardless, no jury, just what's presented; and even if the judge feels as though that person there is the main offender, but those three people there were with that person, they all have to be fined the same: \$5000. Whilst I appreciate the point of view that sometimes they know that they'll get in trouble, if some people have had substances to drink or they've taken substances, they are probably not as clear headed as they should be.

I acknowledge the RSL. That's our peak body protecting our war memorials. We've all said in this place how important they are. They must be devastated with the design of the Mac Point stadium, how that's completely going to overshadow the cenotaph, a place that was put there for eternity without being overshadowed; but I suppose some people might think this bill is a way of mending a few bridges.

Our peak law body, the people who understand, the people who we go to, the people I go to when I need some assistance with any piece of legal document, any act that comes through, I like to hear what the Law Society has to say. I come from an education background. I'm not strong in the law but coming from an education background, I was part of the statewide behaviour management team. I did have to do postgrad work from Newcastle University on emotional disturbances and challenging behaviours. I do understand restorative justice. I prefer William Glasser's work with control theory principles and Diane Gossen's restitution principles; that's what I prefer; but when it comes to legal matters and laws that we are making, I refer to those people who are in a position to give me best qualified advice.

We talk about how diggers fought for our society; our diggers fought for a just society, one that reflects what they intended. Our diggers would probably be some of the first to maybe not do the right things against the pyramids or whatever, but they would accept that there would be a just law. They would accept that there are a range of behaviours and there are a range of people within our society who might not be able to pay the \$5000, but they would accept that our justice system is in a place where we should rely upon the experience of the people, the judge who is there, to make an accurate decision, and we're not doing that.

We're saying, yes, we want your decision, but the minimum is 25 penalty units. The minimum's there. You can do all this between 25 and 500. That's the range, but we don't think you've got the ability or the capacity to work out this section, so we're going to impose that, not because of any legal basis or grounding, because we think that's what our community want. In this place we're creating laws, and laws are not always what our people want; but laws have to reflect a just society. We have other ways for people who do these offences to be punished. I'm really appealing to people here. Whilst I possibly don't agree with the whole bill, I think the bill is strengthened if we delete the minimum mandatory sentence that we're imposing.

It does not take away anything from what any member here has said. What it does do is it says to our judges, we think you are capable of discerning what punishment is appropriate for the individual in front of you, and I would hope that other members take it upon themselves, and I hear the feeling of the room, but I think this one doesn't weaken this bill. It actually gives this bill more strength because it's saying to our judiciary, we think you know what you're talking about. It doesn't have to be bull-axed by members in parliament who want to make sure that the community is heard. I hope members in this place support me.

Ms RATTRAY - Thank you, Madam Deputy Chair. I acknowledge the honourable member's amendment, but the minimum fine is actually an important element of the bill. The existing offence already provides for a maximum fine, so simply increasing that maximum leaves entirely untouched the question of the minimum consequence that should always occur after a person has been convicted of the offence by the court. Now the proposed minimum is 25 penalty units, and it does not impose mandatory imprisonment; imprisonment remains entirely at the discretion of the court. Nor does the minimum fine prescribe the offender's overall sentence. The court retains substantial sentencing discretion, including the amount of the fine between the statutory minimum and maximum, whether imprisonment is appropriate, and the application of the other sentencing options available. Minimum monetary penalties are not new in Tasmanian law, they already exist, including, for example, under the *Road Safety and Drugs Act 1970*. The question before the Council is therefore not whether parliament could, can or should ever prescribe a minimum fine, it's whether this particular offence warrants one.

The honourable member's amendment does not reduce the proposed minimum from 25 penalty units to some other level, it removes the minimum altogether. That would remove an intentional element of the bill's policy design rather than merely adjust its quantum. Madam Chair, for those reasons, the government considers that the minimum fine should be retained, and we'll be opposing the amendment.

Ms O'CONNOR - I want to thank the honourable member for Mersey for putting forward this amendment, which has real potential to make this legislation less unjust. I really hope, even for those particularly independent members who've said they will support the bill, that you examine this amendment from the honourable member for Mersey and recognise it takes nothing away from your, in fact our, shared revulsion at acts of vandalism towards war memorials. It takes nothing away from your apparent desire to see us have a new legal framework in place around the vandalism of war memorials. What it does do is that it makes this bill somewhat fairer.

Madam Deputy Chair, in this place, and I note the comments of both the honourable member for Nelson and the honourable member for Elwick about making good law, that's what we should always be doing. We need to be really careful in this place, given the weight of the responsibility that's put on us, not to devolve into populism. That's how you make bad law: you

worry too much about what you think the electoral consequence of a vote might be. We have to, to the greatest extent possible, rise above that in this place, because of the weighty responsibility that we have as a house of review to make sure that the legislation that comes through the Tasmanian parliament, hopefully, is the best that it can be.

I say to the Labor members here, I just remind you of the work of the former premier and attorney-general Lara Giddings, who took great courage - because she was being attacked for not supporting mandatory minimum sentences for child sex offending. It's a difficult argument to run in the public domain, but on that principle of law and the independence of the judiciary, every single time the question of mandatory minimum sentences came up, Lara, as either attorney-general or shadow attorney-general, and member for Franklin in the other place, stood firm on that principle of judicial independence.

Supporting this amendment does not undermine the intent of the bill, it simply makes it fairer. I ask honourable members to think about some of the demographic issues that we are dealing with here, some of which was touched on by the honourable member for Mersey, in these acts of vandalism towards these sacred sites. Young people, many of them from disadvantaged backgrounds, often young males with a bit of time on their hands and a bit of grog under their skin, and whatever else they've been taking. We have to be very careful to be mindful of the consequences, and they won't be unintended consequences; they will be intended consequences if we have a mandatory minimum penalty for this offence of how many penalty units, 25 penalty units and not less, so I hope honourable members will support this amendment.

Ms WEBB - Thank you, Madam Deputy Chair, I appreciate the chance to speak to this amendment and thank the member for Mersey for bringing it to us. I certainly support it because it does ameliorate a highly problematic aspect of the bill, that being a mandatory minimum, which is not regarded as appropriate, but more importantly, it's not regarded as an effective way for our justice system to operate. We have judges and magistrates who are put in place because they are esteemed, experienced legal experts and we task them with the operation of our justice system, knowing that what will come before them is an absolute multitude of specific, varied circumstances and that they will have to bring to bear their extensive esteemed experience and their legal knowledge. To some extent we expect them to bring wisdom to consider each instance when it comes to sentencing someone whose been found guilty. We task them with that on behalf of our community and we trust they will exercise that role dutifully, with diligence, with full understanding of what's available to them and what they need to give consideration to. That's what we task them with. So when we put in a mandatory minimum, we remove their discretion to do that, we remove it.

If I had proposed an amendment to this particular part, I would have also brought down the upper end of things, but the member for Mersey hasn't done that. He's left in now available an increase of the maximum penalty to go from the \$5000 current rate or thereabouts up to \$106,000 as the new maximum. There is now a vast opportunity for a magistrate to look at this circumstance if there's someone found guilty here and apply a financial penalty that goes all the way up potentially to \$106,000. That's a significant expansion of what's available for a magistrate to bring to bear as a sentence, to be nuanced about what they deliver as a sentence and to have a lot harsher financial penalty delivered. That still remains with this amendment. What it does is take away the mandatory aspect of a minimum of \$5000 that this bill puts in place.

One of the things we have to think about here is that we're probably, in our own minds and even in some examples we're giving here to illustrate things, thinking about who might be committing these crimes and committing these offences. We're thinking about people who we think should have pulled themselves together and probably behaved better and not got themselves into that situation in the first place and they deserve to be penalised in this way. Of course, a minimum of \$5000, everyone in the community might think that yes, that's what it should be.

We can only do that when we're sort of making up in our minds a typical kind of offender who we think deserves that punishment. What we know is there's a multitude of situations that might present. When I was researching this bill, when I was thinking about this bill, some of the ones that I found that were suggested in that research I found really disturbing were to turn my mind to if there is a mandatory minimum and we've taken away the discretion of judges in that respect.

What if it's a veteran who's committing this offence? We know mental health issues, suicidality, all sorts of substance abuses are things that can be experienced by veterans in our community. What if it's a veteran who commits this offence? What if that occurred because they were in a state of high distress and were in fact, in some sense, acting out a trauma as a result of their service? They happened to direct that towards a war memorial. That person then was brought up on an offence and brought to a court, to a magistrate. We've removed the magistrate's discretion to consider that circumstance, for example. Of course, we can't point to the unending multitude of different examples that might be the case. I've gone deliberately to a particularly disturbing and uncomfortable possibility. I don't know the extent to which that might have occurred, but we certainly can't rule it out that it would never occur. But it could. It could be a veteran's family member, somebody who's died in service, and a family member who's traumatised by that and acts out.

It's because we don't know what the multitude of potential situations might be. Only the magistrate in each instance is going to know what the circumstances are, fully, around the perpetrator, around the offence, around the victims of the offence, around the community impacted by the offence. Only the magistrate is there to fully appreciate all those factors. What we're saying is you can't use your discretion fully because we're going to put a mandatory minimum. It would be highly problematic in a whole range of potential instances for magistrates to have to apply this mandatory minimum. For any number of instances, it might not be, but there are absolutely instances we can contemplate where it would be. It would be overtly damaging in terms of justice, overtly damaging in terms of the people involved.

There might even be instances where the community within which this offence occurred desperately regarded it as inappropriate to punish the perpetrator. There's a circumstance where that could be the case. It might be a community member and it might be well understood why the offence occurred, and there might be absolute sympathy and support from the community for that. They cannot even then put forward to the magistrate that situation and ask for that to be considered in respect to the punishment. It must be this minimum or above if we have the bill as it is.

We need to be really careful here about this. The magistrate has all of the options available. All this amendment does is say we're not going to put that constraint on discretion for when there might be particular times when things under that minimum might be more

appropriate, or other options might be more appropriate without any minimum financial penalty.

The other thing I wanted to talk about was there is a cascade effect when you financially penalise people. Even people who we might all agree should pay a financial penalty, potentially we might have no extraneous circumstances, but there are always potentially cascading circumstances and those can be taken into account by a magistrate if they have full discretion, knowing they've got an absolute scale right up now under this bill to \$106,000.

There might be other people who are significantly impacted by a financial penalty, significantly impacted. It might actually be something that leads to an impact on families and children. It might impact on housing situations. It might impact on all kinds of things. Again, the particularities of those circumstances, we can't anticipate all of them. But we do have to be aware that justices will be the ones in the moment making decisions about it and what we're doing with this bill is taking away their full opportunity to do that. It's interesting to consider -

Madam DEPUTY CHAIR - You have one minute left.

Ms WEBB - No, I started at 6.45 p.m. on this clock and I'm up to 6.54 p.m. I've been going for nine minutes.

Madam DEPUTY CHAIR - Yes, it was 10 minutes. It's 15 minutes for the mover and 10 minutes for other members.

Ms WEBB - Oh. That's fine. I will have another speak. Thank you.

Mr GAFFNEY - Thank you. I won't speak very long. I appreciate people's contribution to this. I hope people think about this clause, and I just go back to what the Law Society has said. The Law Society of Tasmania says on the website 'it represents and upholds the independence of the Tasmanian legal profession, and advocates for a fair and just legal system for all Tasmanians'. The quote I received from the Law Society is:

Your proposed amendment would remove the mandatory part of the sentence and if the bill were to pass, the amendment would be an improvement. Having said that, the Society remains of the view that the bill should not pass.

But the Law Society, our peak legal body, has said that this bill, if this amendment goes through, is strengthened. Our role in this place, at all times, whether we support a bill or not, is to strengthen a piece of legislation. I would think that coming from our peak body, who have said that regarding this particular amendment, to delete it, to allow the judiciary, the magistrates and the judges, to do their job, unencumbered by what we've imposed on them without any change of the capacity that they can go from zero to 100 units, they can do the orders, they can do the terms. I would really, sincerely hope that members in this place see the sense in this amendment and support the deletion of 25 penalty units.

Ms LOVELL - I'm just standing to very briefly put on record that I appreciate what the member for Mersey is attempting to achieve here and understand why, but I won't be supporting the amendment. This is a decision we made as a caucus prior to the debate in the other place, to support the bill with this penalty included. So, we will stick with that decision, but thank you for moving the amendment, and I appreciate what you're attempting to do.

Ms WEBB - I can see the way numbers are probably going on this amendment, which is a shame. I want to take the chance to make one other point in relation to it, because it's an important consideration. I can hear members sighing as I get up to speak here. The thing I wanted to point to, I think it's of interest, actually, for members to be aware of and to think about. We have some really great research that's been done in Tasmania, and it was done by Professor Kate Warner around these sorts of issues. It relates to mandatory minimums. It relates to when members are really keen, and I understand why very well. Members want to do what communities think will be effective and good, and often communities have certain things in mind that members think they're coming here to uphold and do on behalf of their communities.

Kate Warner's research, and I'm completely paraphrasing it here in a completely unacceptable way in terms of academics, but in a nutshell, the gist of it is it showed that when the assumption is that community members think sentencing is too light and people get off too easy - because that's often what we'll hear from the community or suggested as community view - when community members were sat down and walked through the facts of a case, about the offence, the perpetrator, the victims, the context, walked through it all, and then asked to propose, given what was in law, available for sentencing, what the community members in this research typically did was suggest a sentence that was less than what the courts had given. So, actually, I think community members are really open to be encouraged to think about the complexity of these situations and the fact that discretion in our justice system is important. Because as soon as you do enter into complexity of circumstance and context, then you do think differently about what the appropriate punishment is.

I just wanted to share that with members. It's something that is of particular interest. This topic and this principle will come through here again. We've talked about it many times, in many different circumstances, in different legislation. We will talk about it again, no doubt. I'd really encourage members who perhaps haven't delved into it as much to take the time maybe to do that at some stage, because it will come back to us and it remains a clear principle in law that it's a shame for us to set aside.

I can hear the sighs, and I think for somebody who suggested that we all need to respect each other, it's a shame, but that's okay. It's an invitation to think about this in a certain sort of way. I have time available to me and I wanted to take the time to do that. It's all good. Thank you.

Madam DEPUTY CHAIR - The question is that the amendment be agreed to.

The Committee divided -

AYES 6

Ms Armitage
Ms Forrest
Mr Gaffney (Teller)
Ms Glade-Wright
Ms O'Connor
Ms Webb

NOES 8

Mr Duigan
Mr Edmunds
Mr Hiscutt
Ms Lovell
Ms Palmer
Ms Rattray (Teller)
Ms Thomas
Mr Vincent

Amendment negatived.

Ms WEBB - I have an amendment to move in my name. I'm going to move the first amendment of my set of amendments for reference for everybody.

Page 5, paragraph (b), proposed new subsection (1A), paragraph (b).

Leave out '7 years'.

Insert instead '3 years'.

This is a pretty straightforward one. As I mentioned in my second reading speech, it is basically acknowledging the intent of the bill and not jeopardising the intent of the bill, which was to increase penalties - and make that really clear. The current maximum penalty is 12 months. This triples it to three years, so it still allows a really significant increase and step up. But it doesn't do it beyond what is typically the maximum in the *Police Offences Act*. It's a really reasonable response to the intent of the bill and the mover of the bill's wish to see penalties significantly increased to send a message, as it might be if people believe that it is going to be a deterrence. It's a threefold increase, so that's a significant increase in deterrence, if you think that penalties are a deterrence that work. It doesn't take it past the point that is typical in the act that it relates to and put it into that dicey territory where it veers into making it problematically a bit like an indictable offence in terms of how things are dealt with.

It also is respectful by keeping it aligned with what's already in the *Police Offences Act*. It's aligned with the idea that these are summary offences that are dealt with without a jury and just with a magistrate in that sense. As a principle of justice, if we're going to be considering penalties of such severity - and we typically define what that is - then that is something that should be dealt with by a jury of our peers, not just by a magistrate by themselves potentially. It's something to consider.

It doesn't take it to that seven years, which is well outside what's ordinary for the act, well outside what we would think should be appropriately dealt with without a jury in a magistrate's setting. It's respectful of, and still aligned with, the intent of the bill. That's certainly what my aim was to do and, as members understand quite clearly, I'm not a fan of what the bill is doing altogether or of this particular clause at all. But what I'm trying to do is to improve the legislation in terms of appropriateness, in terms of what's aligned with current arrangements for these sorts of things and is still delivering on the intent of the person who's moved the bill.

I know I have more time, but I don't need to use it for this one. I think it's pretty straightforward.

Ms RATTRAY - Thank you and I acknowledge the honourable member's amendment. The bill was introduced specifically to strengthen penalties for damage to war memorials and to send a clear message and that such conduct is treated as particularly serious because of the community significance of war memorials. Reducing the maximum penalty from seven years to three years would substantially weaken that message and dilute the policy objective of deterrence. A seven-year maximum does not require a court to impose a maximum prison term; rather, it gives courts the capacity to respond appropriately to the most serious examples of offending, including deliberate, repeated, organised, ideologically motivated or extensive

damage, and reducing the maximum to three years would limit the courts' ability to distinguish between lower level offending and the worst cases.

Mr GAFFNEY - At the moment, my understanding is 12 months is the offence if somebody does that. So if it triples, we're sending the message that it is a significant crime and that it should be punished accordingly. We're having a debate here whether it's three or seven. I don't think you're sending the message out to the community that - we could make it 99 if you wanted to. I mean, if you want to make it really serious, let's make it 60 years so that the community then understand how serious it is. What we're doing here is we're tripling the offence from 12 months to three years. That's serious. That's serious, it's sending that message out. But what we are doing, we're getting into a realm of a different offence potentially, with different rules and regulations and that complicates it. What the member has suggested is quite fair and reasonable and will still let people know that it is a serious offence. It is at least 25 penalty units, at least three years or maximum three years. It's tripling the offence as it is at the moment. We could make it 30 years if you wanted to, to make it really serious for our community. I support the amendment.

Ms LOVELL - Thank you, Madam Deputy Chair. Thank you to the member for Nelson for moving the amendment. I will be supporting this amendment. This still sends a strong message but brings it more in line with similar offences. We are still increasing the penalty, as the member for Mersey has said, by triple. I am comfortable that this still sends the right message with the bill. So, I will be supporting it.

Ms WEBB - Thank you, Madam Deputy Chair. I appreciate the member for Mersey and the member for Rumney for speaking on the amendment to indicate their support. The thing I wanted to just rise on to add to my earlier remarks about the justification for the amendment was really just in response to the Leader's points. If we were to be talking about something that was vastly damaging or ideologically motivated or incredibly ferocious, we're talking about potentially an indictable offence anyway. So, it shifts it into the different space.

What I'm proposing with the amendment - not only is it aligned with the act in terms of other maximums - it is tripling, so it does deliver on the intent of the bill, but it also doesn't muddy the water to encourage us to still deal with things in the summary space when the things that we might be asserting need to be captured by a seven-year penalty might best be attended to in the indictable space. I don't see that as an argument to justify why it needs to be seven and so out of step with the current act. This is an appropriate and proportionate delivery of the intent of the bill.

Madam DEPUTY CHAIR - The question is that the amendment be agreed to.

The Committee divided -

AYES 8

Ms Armitage
Mr Edmunds
Ms Forrest
Mr Gaffney (Teller)
Mr Hiscutt
Ms Lovell

NOES 6

Mr Duigan
Ms Glade-Wright
Ms Palmer
Ms Rattray
Ms Thomas (Teller)
Mr Vincent

Ms O'Connor
Ms Webb

Amendment agreed to.

Ms WEBB - Thank you, Madam Deputy Chair. Yes, I'm using my second call to move the second amendment in the series that I shared with members. So, I move -

Page 6, same paragraph, proposed new subsection (1B), after 'against subsection (1),'

Insert 'or in substitution for a monetary penalty that is required to be imposed in respect of such an offence,'.

To speak to this amendment, in some ways given that we've now established in the bill there is a mandatory minimum fine, and what we know is that from what's in the bill, if someone is found guilty of this offence, the person who's found guilty is liable to either the mandatory minimum penalty, if not more, up to \$106,000 or an imprisonment for a term not exceeding three years. Either of those things, that's what's going to happen.

What I'm doing here? Think of it this way. If anything, I spoke about in relation to the mandatory minimums just tweaked something for you in your thinking, what I'm providing here is an opportunity for there to be one more opportunity for discretion by a magistrate. What I'm doing here is to say in (1B) it says in addition to any other penalty that may be imposed in respect of an offence against subsection (1), so in addition to the fine or the imprisonment, the court if it considers it reasonable in the circumstances, is to make a community correction order, under the *Sentencing Act 1997*, that requires the person to go into community service.

This makes it not just in addition to, but also or in substitution of the monetary penalty. It just gives back a bit of discretion, and this may only be relevant for those unanticipated - we can't anticipate the variety of circumstances. There may well be a circumstance in which a magistrate absolutely, categorically does not regard it as appropriate to impose either the fine or the imprisonment, but can then deliver on this. Of course, it doesn't stop the magistrate doing the fine and community corrections, or the imprisonment and the community corrections; it can still be in addition to those things. It doesn't take away the intent of what is being put here, but it does leave a door open for discretion that this could be in substitution of one of those other two penalties, for times where extraordinary discretion in that respect is required that the magistrate can bring it to bear.

It is something that I think, again, doesn't disrupt to a great degree the intent of the bill. It does, absolutely, still leave available for there to be monetary penalties, imprisonment, for there to be those things in addition to community corrections orders as well under this; but it does, just by inserting these words, provide for it to be just the community corrections orders, where the magistrate deemed it appropriate.

Again, it comes back to our principle of trusting the esteemed, experienced legal experts we put in place as magistrates to utilise this facility available to them in circumstances that they regard to be appropriate. It does allow for us not to anticipate every single particular circumstance that might be required. I encourage members to think of it as something that adds to the legal robustness and the justice robustness of this bill, by adding in that recognition that

in some instances discretion is required. It's probably a sufficient amount of explanation. I might have more to say on further speaks if there are things that are raised by members that need to be addressed on it.

Mr GAFFNEY - I think it's too good of an opportunity to reflect on some of the very good speeches I heard from members in this place where they spoke about restorative justice, restitution principles and education. I'm going to imagine myself being a judge here, and I have one case where there's been a calculated gang that wanted to disrupt and destroy one of our sacred monuments. Yes, not a problem, 50 units, 18 months in jail: go. I'm going to say a young person comes along, bad decision, bad time; there is no way that young person is going have \$5000 to cover a cost of something. If a young - and I'm not picking on the young, but we're going back to demographics and disadvantage -

Ms Webb - Not children, but let's say a 19-year-old.

Mr GAFFNEY - Yes, let's say an 18-year-old. Yes, bad decision, wrong place with his mates, too drunk, did something wrong, then has a \$5000 fine in front of them. That's a huge mountain, a wall for that young person to ever recover from in some of the disadvantaged communities we've come from. The judge has the right then to say, okay, yes, I understand the circumstances, you've got 50 hours of community service to do in your community, to do this. In that time, you're going to meet this person, that person, you're going work with that group, to understand what you did, to give that young person who's made a mistake a chance to restore what they did, and at least give them opportunity to pay for the crime, but through an avenue that is possible for them. We don't want to put a young person in jail for a stupid decision, or put in front of them a bill for \$5000 that some of them just cannot afford. On a mistaken, idiotic, drunken Saturday night, out with their mates, and they do something stupid.

Now, that's different to a calculated group going to damage a memorial. A judge will have that capacity. This amendment gives the judiciary a chance to at least reflect upon the differences that we have in our community. At the moment, we're treating them all the same: \$5000 and then we go up from that. This one allows the judge to have some discretion over what is most suitable for that person who could be a member of a group of people, and the role that that person did in the damage that they've done, which is, as we've discussed before, wilful, it's not right, all that sort of stuff; but sometimes it takes us a while in our journey to actually have the maturity to understand what is right and what is wrong, and some people take longer.

I hope members in this place support the second amendment. I think it's a really good one and I think it will strengthen the bill and give the judiciary a greater flexibility in ensuring that the penalty is appropriate for the person who has committed the crime.

Ms RATTRAY - Thank you, Madam Deputy Chair. The minimum fine guarantees a meaningful financial consequence upon conviction, while community service, where reasonable, provides an additional restorative and educational consequence. So, allowing one to substitute for the other changes that policy architecture in a way that diminishes the bill's holistic design approach. The bill expressly provides for community service orders in addition to any other penalty. The policy intent is that offenders should face both punishment and restorative justice, a monetary penalty reflecting the seriousness of the conduct, together with the community service that connects offenders with the affected community.

Ms O'CONNOR - Madam Deputy Chair, this bill is made better by this amendment. The bill has three potential elements to punishment in it: potential jail time; a potential minimum fine of \$5000, and that is so regrettable; but also community service. This amendment provides the court, the judge, with the opportunity, as the honourable member for Mersey has said, to examine the person in front of them and apply the law accordingly and justly. I take on what the Leader for the Government said in the response then, and I find it a really callous approach. Has the mover of this bill or the government thought about how some young person from out in a regional area, who may be unemployed, is going to find \$5000? Have you thought about potential unintended consequence of that fine? I don't think so.

I'll just remind honourable members of the Robodebt scandal, and there were people who took their lives because they had been levied a debt by an automated system that ran into the thousands of dollars which they knew they had no hope of paying. Now, I know that's an extreme example of what happens when someone's in financial distress and presented with a fine or a bill they can't pay, but \$5000 is so much money. We should give the court, the judge, the opportunity to say instead, you will do this community service, because it's not like someone's getting off; community service would be hard work. Anyway, I think this is a potentially restorative amendment. It provides an opportunity for those who do these acts of vandalism to understand the consequences of their actions through genuine community service and, in many ways, it's much more meaningful as an act of restitution than paying a fine. I hope this amendment is supported. I think it's really important. Sorry, that was a slightly unstructured rant, but here we are.

Ms WEBB - Thank you, Madam Deputy Chair. I appreciate the comments made by members on the amendment. It's useful to hear people's view on it. The only thing I would add in response to the Leader's comments on behalf of the government, it's interesting to hear talk about the policy design of this bill because, actually, there is no policy design in this bill. This is a bill that has come to us with no evidence, no research behind it, no materials to support any policy intent in it; no expert input, no legal advice was sought, no consultation with the legal community was undertaken. There's no academic basis for the things proposed in this bill. To suggest to us that this amendment is somehow disrupting the policy design of the bill is not credible. Not credible.

Here's what I think it does: we've already established that the mandatory minimum fine is staying in the bill. That sends a message then - should this bill pass and become law - for those who think that's a meaningful message. It makes a clear message that's the financial minimum penalty at which this parliament, on behalf of the community, regards a fine should be levied, from there upwards to \$106,000. That stays. It's a really clear message that's the minimum we think a financial fine should be. What this does is it provides for the extraordinary particular circumstances that do come through. The genuine human circumstances. It's interesting because whatever examples we put forward, you might not agree that those warrant extra consideration or a different set of arrangements. When the member for Mersey talks about a young person getting drunk and making bad decisions, you might not agree that person doesn't deserve a \$5000 minimum fine. That's fine.

The reality is that's not the only example we're talking about. We're talking about a whole range of them. I spoke about some of them when I spoke to an earlier amendment. We don't know the circumstances under which particularly traumatised people who might be part of this community might be captured here. Again, this does not take anything away from what is available there in the bill. If it's going to be a fine, it's going to be a minimum, it's going to be

that \$5000 minimum at least, if not more. If it's going to be imprisonment, it's going to be the three years at least, if not more. I'm sorry, at maximum. But that's the maximum that's generally available under this act. We've made a really clear statement that this is a serious offence within the context of the act that it exists.

Those messages are still there. The judge can still levy those penalties - the fine or the imprisonment - as well as a community correction order, but this just provides for there to be one more opportunity for a judge to exercise discretion where required. It's an interesting exercise to potentially speak to people in the legal profession - judges or magistrates or lawyers on either side of the table, actually, prosecutors or defenders - about the sentencing matters. I think almost without fail you will find they are in favour of judicial discretion. Almost without fail. Everybody who works in this space. I just encourage members to see this as appropriate, not really taking anything away from the messages in the bill but delivering a more robust sense of justice and availability of justice for what could be a myriad of particular circumstances.

Madam DEPUTY CHAIR - The question is that the amendment be agreed to.

The Committee divided -

AYES 6

Ms Armitage
Ms Forrest
Mr Gaffney
Ms Glade-Wright (Teller)
Ms O'Connor
Ms Webb

NOES 8

Mr Duigan
Mr Edmunds
Mr Hiscutt
Ms Lovell
Ms Palmer
Ms Rattray (Teller)
Ms Thomas
Mr Vincent

Amendment negatived.

Madam DEPUTY CHAIR - Honourable member for Nelson, your third amendment.

Ms WEBB - That's my third call on this clause. I have an amendment to move in my name.

Same page, same paragraph, same proposed new subsection, paragraph (a), after 'community service'.

Leave out 'in the community where the offence occurred'.

This is a fairly straightforward one to understand what I'm intending here. It still leaves available that a community correction order can be made in addition to either of the other penalties that are being applied. It has been argued this is apparently the restorative justice aspect of this bill in terms of policy design. In moving this amendment, there are two things I'm going to speak to. One is that this isn't restorative justice, for a start. I speak to that briefly, but more importantly, this is unworkable and doesn't fit within our current system. I will briefly speak to both of those in the time that I have available.

To be really clear, you can assert that something is restorative justice, but it doesn't make it restorative justice. Making someone do community service in a community where they've damaged or desecrated a war memorial might sound to a lay person like restorative justice, it might sound like it's what a general gist of restorative justice might be: making them do something to make up for what they did in the community that was impacted by it. And I absolutely endorse the idea of restorative justice and what that can deliver for everybody involved. But that's not what this is, so I want to be really clear with people.

Restorative justice is this. This is one way to describe it, and I've just tried to find something that's succinct. Restorative justice is a process that focuses on repairing the harm caused by crime or wrongdoing. Instead of treating an offence as a violation of state laws that requires punishment, it brings together victims, offenders and community members to address the personal and relational impact of the incident and find a way forward. That's a broad definition. Restorative justice has core principles to it that I'd like members to be aware of here, because it's about why this isn't restorative justice.

One of the core principles of restorative justice is repairing the harm. That's focusing on the healing of emotional, physical and relational damage, rather than just inflicting pain, or time served.

The second core principle is active accountability, so this is important here. Restorative justice requires offenders to truly understand, acknowledge and take direct responsibility for the impact of their actions. So, a model of restorative justice, a process and mechanism of restorative justice, needs to bring the offenders to a true understanding and acknowledgement of the harm that they've caused. There needs to be a process that actively does deliver that outcome; it's not just making them do something to make up for it.

The third principle is about empowering victims. This is important. Restorative justice gives people who are harmed a voice, a choice and an active role in a resolution process. This isn't about predetermined activities to somehow make up for what you did. This is about a process that involves dialogue with all those that I've described that need to be involved: the perpetrator, the victim, the community, involved in a dialogue, in designing what will meaningfully heal the damage caused, the victim feeling that they have been part of designing that, and regarding it as credible that the perpetrator has actively participated and come to a true understanding and acknowledgement of what they did.

Another core principle is voluntary participation. It relies on all parties choosing to take part safely and willingly. Those are the core principles of restorative justice: all of those. Restorative justice isn't a buzzword; it is a whole field of very credible, study and practice. It's been put into practice. There's a huge evidence base that says that it works to prevent recidivism. It works to deliver a sense of justice to everybody involved. It works to heal. That's not to say we shouldn't have community correction orders be available here, and my amendment doesn't take away that availability, but I want us to be really clear: this isn't restorative justice just because we say it is, here on the Floor.

Ms Glade-Wright - Did anyone say that?

Ms WEBB - Yes.

Ms O'Connor - Mr Ferguson has said it in his -

Madam DEPUTY CHAIR - I think the honourable member for Nelson has the call.

Ms WEBB - The Leader has described this as the restorative justice aspect of the bill. That's been said numerous times here in this debate. How is this workable? If this were to happen, and a magistrate has in front of them a person who has been found guilty, has applied a fine and decides in addition to that to bring a community correction order to bear, they put it in place, requiring the person to perform the period of community service in the community where the offence occurred, what is going to happen when that person doesn't live in that community, in fact might live in an entirely different part of the state?

Let's say the offence occurred in Dover and the person lives in Launceston. Practically speaking, who is responsible for implementing that, and who is responsible for the financial burden of implementing that? Who is responsible for sending the person from Launceston to Dover, accommodating them for the time of their community service and then sending them back to Launceston? Who is responsible for all the arrangements involved in that? Is it our community corrections team, are they bearing the administrative burden of that and the potential financial burden of that? How will this practically work, in terms of this being decided by the magistrate, which currently does not happen? Where a community correction order is imposed, the community corrections team then make the arrangements and decide where that needs to happen and what that should be for that circumstance. That's the nuance of it.

Now, this takes away the nuance of it, and I want to know how that's workable. What consultation has there been done with magistrates and community correction, for them to tell us how this will work, and what they regard in terms of this being an appropriate approach?

That's my first speak on it, Madam Deputy Chair. The two things: we cannot pretend that this is restorative justice, which isn't to say it's not valid to be an option, and I'm leaving it there as a valid option to be added to one of the other penalties, but I'm taking away the bit that mandates it needs to be in the community that it occurred in, because I think that's the unworkable part of it. It certainly doesn't comply with our current practice and has not been explained how it will be working in practice.

Ms RATTRAY - Thank you very much, Madam Deputy Chair. I just point honourable members, and I know you're looking at the bill so it's in front of you all, but it says in (a), 'if it considers it reasonable in the circumstances'. If it's not reasonable in the circumstances for somebody who lives in Dover or lives in Launceston to go to Dover, then that won't happen. It can be avoided through reasonableness in paragraph (a) that it actually states - and this comes back to the court discretion. So if the young guy says, look, I live in Dover and I've got a job and I can't go back to Launceston and complete any community work that's been given, then perhaps there'll be another arrangement. I see that those first leading words, 'if it considers it reasonable in the circumstances', to actually address the honourable member's question about how that might work.

Ms LOVELL - Thank you, Madam Deputy Chair. I just wanted to clarify with the Leader, and if I could get some further confirmation of that, because I can understand the arguments that the member for Nelson is making: without the amendment, can you confirm that it would still be possible for a community corrections order to be made without having to be performed in the community where the offence occurred? The way I read it, I understand what you're saying in 'if it considers it reasonable', but my concern is that with that line about it being in the community where the offence occurred, that that would mean that a community

corrections order couldn't be issued at all if it didn't meet that criterion. I'm reading further, in '(b) may also impose such other sanctions, and make such other orders, as the court considers appropriate in the circumstances' that a community corrections order that's not in the community where the offence occurred may be able to be applied under that part (b), but if I could just get confirmation from the Leader that that is the case. Thank you.

Ms RATTRAY - Thank you. The honourable member is absolutely correct that there are options here to address the matters that have been raised. Just making the point: requiring community service to be undertaken in the community where the offence occurred ensures the offenders make amends to the people directly affected by their actions. I instance a matter some years ago in the community that I live in where Simpson's donkey's ears were cut off and the whole community was mortified. The restorative aspect of that was that that young guy - and one, I believe, took the fall for a number - actually spoke at the Anzac Day service and talked about Simpson's donkey, and that was the address for Anzac Day on that particular year after that event.

Ms O'Connor - But he lived in that community, didn't he?

Ms RATTRAY - I'm just making the point. Yes, he did live in that community.

Ms O'Connor - So he wasn't being made to go somewhere else to retribute.

Madam DEPUTY CHAIR - I think we won't have discussion.

Ms RATTRAY - But I'm making the point that I'm sure that stayed with that community, and I can absolutely attest to the fact that it stayed with that young man, and he's a very, very fine person today.

Ms WEBB - Thank you, Madam Deputy Chair. Thank you, too, members, for speaking on it. The reality is (b) is available to the magistrate anyway, so that part of the clause is superfluous - magistrates have that power. As the Law Society has made clear to us, and in correspondence, they say 37AAA(1B) is of no use; magistrates do not have the power to order where community service is performed. Perhaps the Leader can explain how this is empowering magistrates to do that and whether that's the case in any other circumstances, given that the magistrate can already apply a community corrections order, and the community corrections team then supervise the implementation of that order. It may well be that they supervise an order, if the person is local, in terms of a meaningful activity.

This, as it's written in the bill here, doesn't even require that the service necessarily be relevant to the damage or relevant to the area that the offence occurred; it requires it to be in the community where it occurred, but not necessarily relevant to the offence itself or the war memorial or whatever it was that was damaged or offended against. It's an unnecessary and unworkable requirement there that we simply don't need to contemplate. A magistrate can apply a community service order now. A magistrate then basically hands over to the community corrections team, who work on how that will be implemented, what it will look like. Again, they can take into account all the circumstances of the person who is going to be undertaking that community corrections order. They could well take into account the circumstances of the crime if the person is in the local community. There's nothing taken away, the young person who spoke about that can all happen as it did, just as you described it, under what's available now.

This is unnecessary. The amendment simply cleans it up and takes out something that would be regarded as absolutely not done. Certainly, magistrates do not currently have the power to do that. What happens if the magistrate decides to do it and it is an unworkable scenario? The person doesn't live locally. There's going to be a cost involved. There's going to be something that's not compatible. What happens in that case? Our community corrections teams are awesome. They deal with these things. They manage the implementation of this. They are the experts in doing that. Their sights are firmly on how to make that aspect of a sentence as meaningful and effective as possible. This is another instance in which we can let them do their jobs as part of our justice system.

I encourage members to support this amendment. It is something that absolutely no legal expert is going to say is okay, let alone advise, including in this. None. The government and the member who brought the bill have not been able to present us with anyone's advice that this is a good idea, let alone a legal or appropriate idea. There's no evidence for that whatsoever. We are legislating on something that no legal expert would tell us is appropriate or workable. Let's just be really clear that's what this is.

Mr GAFFNEY - In thinking about this, I understand the reason for saying this is where you did the crime, this is where you should do the time and the community service. What happens in a situation where the community is that enraged and that upset by the offence that it may in fact be harmful for that person to do that community service in that community at that time? If you think about it, are we then saying to the community corrections people you must put this person doing the community service back where the crime was made? Isn't there some concern - there could be some concern about the safety of the person to make them do that or there are other ramifications, the indirect consequences of the court saying you've got to do it in this spot because that's where it happened.

Now, there are some times when the judge would go, 'Look, the person who did the crime, or the group, they're upset by it, they acknowledge that they've done the wrong thing.' The community would say, 'Yes, they can come do community service.' There could be a situation though, where the community doesn't want anything to do with that person. That person is not from there. That's where they have to come back and do it. 'They've desecrated my grandfather's monument. I'm so upset by that.' There could be a situation where it may be unsafe to put that person or people who did the crime back into that community. I think by taking out 'in the community where the offence occurred' actually allows the magistrate and then the community corrections people to make a good decision about where that community service should be taken and when.

I'm just thinking that, for a different reason, I should accept the amendment to allow that flexibility because we could be putting somebody into an unsafe situation because of the law we've made. I don't think we should be doing that. We need to think seriously. The magistrate and the community corrections person, they can decide - well, the magistrate can't because of section 37AAA - but the community corrections can say, 'Look, I think it's good for this person to do the community service in this community. However, I'm concerned about what might happen. I think that that person should be doing it 40 miles or kilometres to the left or to the west.'

There's a basis of concern there and it's just deleting a few words to allow a bit more flexibility by both the magistrates and the person in charge of community corrections. I would encourage the government to reconsider their position on this amendment in light of the danger

that it could present to a person in this community, whether we agree with the offence they made or not. We're not happy with them in the first place, but we shouldn't be putting them into a position where they may be threatened.

Ms O'CONNOR - The member for Mersey makes a really good point. As I understand it -

Ms Rattray - I was about to address that.

Ms O'CONNOR - Great. As I understand it, a person who's on a community corrections order requires supervision. If this amendment passes in the form that it does and we are requiring someone who has vandalised a war memorial to go back into the community to do some community service, we are not only potentially putting that person at risk, we're also putting community corrections people at risk, or we're creating a resource issue because if you need to have someone supervise a person on an order in an angry community, then I think you've got a problem, not just for that community, not just for the offender, but also for the community correction system itself. There's a potential resource issue here, which I don't think has been considered. I understand where the honourable member for Bass - who first brought this bill forward - would be coming from in thinking, 'Well, go back and face the community that you injured.' But there's a risk here and the honourable member for Nelson makes an excellent point that there is no provision for this in any other statute. I really hope members, having listened to the member for Nelson and the member for Mersey on this amendment, accept that it's a really important and necessary amendment and improvement to the bill.

Ms RATTRAY - Thank you very much. I've certainly appreciated the contributions by honourable members and some of the matters that have been raised are exactly the reason why it says in proposed subsection (1B)(a), 'if it considers it reasonable in the circumstances'.

It will only happen if it is reasonable in the circumstances. If there's an absolute push against somebody to come back into a community or to do community corrections, then there's the discretion there. If it's not reasonable in the circumstances to have that occur, then it won't occur; going back into the community is about respecting the local community and acknowledging the harm and the deep offence with what has happened. That's the basis of the bill; and as for community corrections officers and their safety, I'm absolutely certain that that would always be paramount, that their safety is addressed before they go into any community and undertake any work. Now, I can't guarantee that, I don't have that power - wouldn't mind it, but I don't - but I'm absolutely certain that they would never put a community corrections person in a situation where they might be harmed.

Ms WEBB - Thank you, Madam Deputy Chair. Just a final little contribution on it: the Leader may well be convinced that that's the case, but if a magistrate has made an order under this power to do that, then that's what has to happen and the community corrections will have to make it happen. If that order is given, that's what they'll have to do and make it work; and we don't know what the impact of that will be, or how that will be made workable necessarily. As the government hasn't addressed the questions I put on this, I presume that the answer to those questions is no. When I asked questions about what consultation had been done with magistrates, what consultation was done with community corrections, what information has been put together on how this is legal and, secondly, workable, I presume, because I didn't get an answer to those questions when I was talking about them in my other contributions, the

government has no answer to those questions; because the answer is, of course, as we well know, absolutely no consultation has occurred with either of those groups about this.

There's no precedent for it. It is inconsistent with the approach we have now. It is inconsistent with the system as it's set up. This is available of course, in broad terms, that community corrections orders can be made like this, but not with the specificity of where it's going to occur. Our justice system is well equipped for this to be part of a sentence that's brought down. Let's leave it, as we have understood it to be workable and working currently, without introducing this absolutely untested, unconsulted, no legal advice to say this is okay, that's been presented to us, actually no consultation presented from community corrections or from magistrates about this.

If I sit down and the Leader gets up and says that there was and reels some stuff off about that, why wasn't that answer given after my second contribution or my first contribution, I'm going to say from my seat; because, really, if you are going to get up and tell me something in answer to questions I put earlier when I've exhausted my speaks on this, that's pretty offensive. So I'm taking the lack of answers already provided by the Leader for the Government to be that they have not done that. They have no evidence for it, they have no consultation for it. We have a dodgy legal basis for it. We have no understanding of how it's workable and what unintended impacts it might have. None of that's been explored. Let's just be really clear: if you vote down this amendment, that's what you're endorsing as appropriate legislation in this place, in the job you've been tasked with to make good law.

Ms FORREST - Thanks, Madam Deputy Chair. I'm not going to say very much, but I'm deeply concerned that without this amendment we're constraining the judiciary to make a decision that imposes a community service in a particular place; because when you read (b), it doesn't absolve that part of (a), because it says 'and (b) may also impose such other sanctions'. Part (a) says if you make this decision to do a community service order, you will make it such that it has to be carried out where that offence occurred. There may be lots of reasons, and I'm not going to re prosecute what other members have said about that. I've heard them, but that's part (a); (b) says the judge 'may also impose such other sanctions, and make such other orders'. Well, maybe they might put them on a drug and alcohol program or some other order that the court considers appropriate in the circumstances. I think what we've been told that (b) covers off on this is fundamentally wrong. We need to be really careful when we start being so prescriptive about what the court can and can't do. We're on really dangerous territory. We should support the amendment. The member for Nelson did ask about the consultation; these sort of things would have been raised by a judicial officer if they'd had the chance.

Madam DEPUTY CHAIR - The question is that the amendment be agreed to.

The Committee divided -

AYES 6

Ms Armitage
Ms Forrest
Mr Gaffney
Ms Glade-Wright
Ms O'Connor
Ms Webb (Teller)

NOES 8

Mr Duigan
Mr Edmunds
Mr Hiscutt
Ms Lovell
Ms Palmer
Ms Rattray

Ms Thomas
Mr Vincent (Teller)

Amendment negatived.

Clause 5, as amended, agreed to.

Clauses 6 and 7 agreed to.

Title agreed to.

Bill reported with amendment.

[8.10 p.m.]

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) -
Mr President, I move -

That the bill, as amended, be taken into consideration tomorrow.

Motion agreed to.

ADJOURNMENT

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) -
Mr President, I move -

That at its rising the Council adjourn to 11 a.m. Thursday 13 August 2026.

Motion agreed to.

Ms RATTRAY (McIntyre - Leader for the Government in the Legislative Council) -
Mr President, I move -

That the Council do now adjourn.

The Council adjourned at 8.11 p.m.