

Community engagement in the modern Parliament in a divisive area of policy.

Members of Parliament rely on the support of their community and members of the public to not only remain in their role, but also to be effective in that role.

Engaging with those we rely on for support is vital and in a modern world, an evolving and ever changing process. What a modern Parliament looks like and how a modern Parliament works is the same. It is ever changing and evolving and elected members need to evolve and change with it if we are to remain relevant and engaged.

When considering what the modernisation of Parliament actually means it is clear it means different things to different people. I plan to explore the question:

What a modern parliament is in terms of public engagement and whether we can effectively engage the broader community in the development of public policy.

I will use a case history from a recent experience in the Tasmanian Parliament in the development and implementation of forest policy. Tasmania's forestry industry has a long history of being divisive with differing viewpoints and conflict dominating the public discourse.

I believe this case describes the challenges associated with effective public engagement in policy development and will also provide opportunities to consider how we can enhance community engagement both broadly and specifically in a contentious area in a modern Parliament.

Governments need to progress business efficiently and ideally with broad community support. Contentious areas do present additional challenges. In such challenging cases it is even more important to engage the community in the development of public policy. If community engagement is done well it is more likely to avoid opposing parties returning to their respective trenches and resorting to the sort of conflict that prevents the community from moving forward as a whole.

I observe that today there is a growing expectation of active involvement in community engagement and citizens expect to be active participants in the public debate. Citizens want their voices heard and their opinions considered.

The growth of online, and thus instant, public opinion platforms, has led to an expectation that all voices will be heard. These changes have not only increased the level of scrutiny of Government, but also an expectation of a rapid response to public input. This often occurs at such a pace that those seeking to develop policy do not have adequate time to properly formulate a fully considered position.

In my view the rise on online participation in the public debate have forced Parliaments to modernise and thus be more accessible. Most Parliaments have a Facebook page,

many also regularly use Twitter. and many Members of Parliament are independently and actively engaged in social media.

Parliaments also upload much more information promptly on their websites including the Hansard of Parliamentary debates, tabled documents, committee submissions and transcripts of committee hearings. The timely publishing online of committee submissions and transcripts of hearings has enabled access to information that can assist subsequent witnesses presenting to a committee, a relatively new opportunity.

In modernising the Parliament there is an obligation to educate and inform the public about the current role and mechanisms of Parliament that enable them to engage in the accountability process and thus inform public policy. If members of the public are not aware of the processes available, they are likely to engage in and rely on social media and the 24 hour news cycles rather than through accessing deliberative, considered and evidence based researched that should inform debate and decision making.

Even though Parliament is more accessible there are many examples where citizens do not feel able to directly and effectively participate in, and influence, parliamentary proceedings and the development of public policy.

Enhanced and effective engagement in the development of public policy may not be a question of moving with the modernisation phenomenon.

Rather it may be more about re-engaging with new generations to promote an understanding of the importance of the scrutiny processes and building capacity that will enable them to participate in the processes that are already available.

It will also require the adaptation of the current processes or the implementation of new processes that these groups are familiar with to enhance this engagement, including online communication and the use of other communication tools including social media.

If we are to ensure a level of public confidence in the policy decisions made in a modern Parliament, we need to provide an accessible process that will actively engage all interested parties regardless of the communication strategies and technology used.

There is a perception, that is also often a reality within Tasmania, and I am sure in other parts of the country and world, that policy decisions are made behind closed doors.

To explore a relatively recent example of poor community engagement in public policy, I will briefly describe an experience within Tasmania in an area of public policy that has been dogged by controversy for over 100 years.

Tasmania has a long history of conflict in the forestry industry. It is an undeniable fact that Tasmania has some of the most spectacular temperate rain forest in the world and

it should and is being protected. Tasmania has over 42% of its land mass currently in formal reserves.

Even with this level of protection, the battle continues as to how much of our native forests should be protected and how much available to harvest to provide timber in a sustainable way for a range of purposes.

For approximately 3 years, key, and often warring, stakeholders met regularly in an effort to reach an agreement that could end the conflict in Tasmanian forests.

This had been tried a number of times before and has always ended with one key stakeholder group, the environmentalists, walking away from the table prior to the signing of any agreement.

Whilst the tensions were very high at times, including threats to walk away from the negotiations and a couple of periods where the ongoing engagement was seriously threatened with stakeholders temporarily withdrawing from the process, all parties eventually signed what was to be titled, the *Tasmanian Forest Agreement* or the TFA.

There was one significant flaw with the process that was used to reach this agreement. It did not seek or include or engage the broader community and some stakeholders were excluded from the participatory process.

This example challenges the questions posed around what a modern Parliament could or should look like, including:

- Is the modernisation of Parliament about restoring public confidence in politics and closing the apparent abyss between Parliament and the public;
- Is the modernisation of Parliament about making Parliament more accessible and what would this look like;
- Is accessibility about the public's ability to participate in, and influence, public policy and thus parliamentary proceedings and outcomes; and
- Is modernisation about improving the image of Parliament in an attempt to address the perceived problem of declining public confidence in the political process?

The Tasmanian Forest Agreement was the culmination of a process that had been underway for almost three years. The result of this process was subsequently translated into legislation with the *Tasmanian Forests Agreement Bill 2012*.

The process leading to this Bill was guided by documents including a Statement of Principles and Intergovernmental Agreements and the negotiations of the signatories to the TFA.

The Statement of Principles (SOP) that was released in December 2010.

As noted in this document, the Statement of Principles was designed to 'resolve the conflict over forests in Tasmania, protect native forests, and develop a strong sustainable forests industry' and identified the parties to the negotiations which had commenced earlier that year.

The Statement of Principles was followed in August 2011 by the Intergovernmental Agreement (IGA), signed by both the Australian and Tasmanian Governments.

The Intergovernmental Agreement was intended to deliver an agreement reflecting the principles outlined in the Statement of Principles. The Intergovernmental Agreement committed the governments 'to work together to support the forest industry to progressively transition to a more sustainable and diversified footing and to build regional economic diversity and community resilience'.

The Tasmanian Forestry Agreement Bill was notionally designed to give effect to the policy position contained in the Intergovernmental Agreement and Statement of Principles through legislation.

However, there was a widely held view that the Intergovernmental Agreement did not accurately reflect the terms of the Statement of Principles and the Tasmanian Forestry Agreement Bill did not reflect either of the previous two documents. The exclusion of a range of stakeholders through the development of these agreements and subsequent policy and legislation resulted in broad criticism of the process used and the resultant legislation.

These negotiations occurred behind closed doors with a select group of stakeholders who were the eventual signatories to the Tasmanian Forestry Agreement and excluded many stakeholders who believed their input was vital to the development of good public policy.

The Tasmanian Forestry Agreement was prepared and signed by a range of key stakeholders, however the resulting legislation did not gain broad support and thus was not likely to result in supported or effective legislation.

The legislation resulting from the agreement, the *Tasmanian Forests Agreement Bill 2012* was read a first time in the House of Assembly on 21 June 2012. It was read a second time on 22 November and read a third time, unamended on 23 November 2012 and read a first time in the Legislative Council on the same day. The second reading debate commencing on 11 December 2012 before being referred to a Select Committee of the whole Legislative Council.

With a majority in the House of Assembly, and the Bill passing through this House in a short period, many stakeholders felt aggrieved that their voices had not been heard.

It was evident that a significant amount of time was given to the core stakeholder group that reached the agreement that resulted in the Bill.

The *Tasmanian Forests Agreement Bill 2012* was prepared and presented to Parliament without further engagement or consultation with other stakeholders who were not represented by the signatories to the TFA.

Many stakeholders were also frustrated when the Government sought to restrict the time given for the “legislative and scrutiny process” within the Parliamentary environment.

This lack of community consultation and subsequent scrutiny at the House of Assembly level highlights the relevance and the importance of the bicameral system.

In an effort to address the lack of adequate scrutiny and the lack of broader stakeholder engagement and input into the policy as presented in the Bill, a Select Committee of the whole Legislative Council was established, the first of its kind. This Committee was established to facilitate independent scrutiny of the Bill, engaging sectors of the community that had been excluded during the development of the Agreement and the Bill.

This Committee received 136 submissions and took evidence over 12 days of hearings. A total of 94 hours of public hearings and 11 hours of deliberative meetings was undertaken, not including the time required to read all 136 submissions.

The Committee was determined to hear from as many witnesses as possible in the limited time available through submissions and public hearings to enable broad and inclusive participation in the future of the Bill before the Parliament as well as the future of the forestry industry in Tasmania.

The Committee endeavoured to speak with a diverse representation of stakeholders including:

- The signatories to the Tasmanian Forest Agreement;
- Non-signatory stakeholders from the forest industry;
- Non-signatory stakeholders from the Environmental Non-Government Organisation (ENGO) sector;
- Community representatives;
- Scientists and professional foresters; and
- Government and political representatives.

A significant number of additional requests were made by interested parties wishing to participate in public hearings.

The Committee also noted in the Report that even with the extensive and inclusive process undertaken, it was not possible to accommodate all of the requests in the time that was available

The Committee did obtain a range of information from the submissions that were received and witnesses that were not previously on the public record. This provided an opportunity for the voices of those stakeholders who were not signatories to the Agreement and an enhanced opportunity for input into the consideration of the Bill by the Legislative Council.

The question remains whether this increased stakeholder and public input into legislative drafting through a raft of amendments proposed by Government and members of the Legislative Council actually resulted in a well considered, inclusive and effective piece of legislation.

The Bill that was eventually passed was in many ways a compromise in an effort to ensure a sustainable future for the forestry industry. Many stakeholders remained unhappy with the outcome.

With almost every election in Tasmania, forestry is a divisive election issue and the 2014 election was no different. The March 2014 election resulted in a change of government and another change in policy with new legislation claiming that it was 'tearing up' the previous Tasmanian Forestry Agreement and Tasmanian Forestry Agreement Act. The reality was that in effect the new Act really changed nothing in the industry for at least six years.

The new Government tabled the *Forestry (Rebuilding the Forest Industry) Bill 2014* on 8 May. Debate commenced on the second reading on 28 May and was read a second time on 4 June with the third reading on 5 June. It was tabled in the Legislative Council on 6 June. Debate commenced on the second reading on 20 August and was read a second time on 27 August with the third reading on 28 August. The Bill was amended in the committee stage of the Bill, however throughout this process, there was no broad community consultation.

Despite the newly elected Government having a clear majority in the House of Assembly, this decision was made without community engagement or consultation. The Government claimed they had a mandate to do this ignoring the fact that any election is never fought and won on one issue.

The time taken to review and consult on the Bill as presented and amendments proposed was very limited and many members of the broader community continue to feel aggrieved and unheard.

It is also interesting to note that during the earlier debate of the Tasmanian Forest Agreement Bill, the then Opposition now in Government had condemned the lack of

community consultation and engagement with all stakeholders. The lack of community consultation in the development of the *Forestry (Rebuilding the Forest Industry) Bill* was in many ways no different.

The process that resulted in the Tasmanian Forest Agreement was flawed in that many key stakeholders were not engaged, had taken almost four years to negotiate. Debate on the Tasmanian Forest Agreement bill in Parliament lasted a total of 197 hours and 13 minutes including almost 58 hours of debate in the Legislative Council, 22 hours of debate in the House of Assembly, 94 hours of public hearings and 11 hours of deliberative meetings undertaken by the Select Committee.

To put this in perspective, the Parliamentary Research Service within the Tasmania Parliament determined that was equivalent to 50 per cent of the hours the Legislative Council spent on all matters in 2013 or the entire time spent by the Legislative Council on all matters in 2010.

The Tasmanian Forestry Agreement and the subsequent legislation eventually underwent extensive community consultation and resulted in significantly improved legislation. It could be argued that this was not the case with the *Forestry (Rebuilding the Forest Industry) Act 2014*.

This example, considering both pieces of legislation that gave effect to a public policy of the time, would appear to demonstrate that public and stakeholder engagement can capture a process to such an extent that inadequate legislation can result and the need for broader public engagement is evident.

However, even after extensive community and broader stakeholder engagement, revised policy that emerges can also be captured by special interest groups.

In a area of such ongoing controversy and long standing disparate views, finding the middle ground to inform public policy is difficult if not impossible as the middle ground can be in very different places for different stakeholders.

In conclusion, I will return to the questions that this conference is exploring.

If we are to consider the questions posed regarding what a modern parliament looks like and how public engagement in policy development is enhanced, I am not convinced that processes such as I have described are effective nor is the process efficient.

In these two examples, it was more a case of some stakeholders and the broader community being excluded from the process, rather than a lack of an appropriate or accessible platform that could or would have provided an opportunity for input by these groups into the ensuing public policy.

In an area where most Tasmanians have a view and many are engaged or involved either directly or indirectly in the industry, an inclusive approach that considers how various stakeholders are likely to engage is necessary.

To achieve such a process requires a considered and inclusive approach that understands the needs and expectations of a broad range of interested parties.

If we are to question whether the modernisation of Parliament is about increased public involvement and whether this equates to a more accountable government, one could argue it doesn't if only certain sectors of the public are given a voice.

If we are seeking to achieve a more accountable government, we do need to consider how to ensure all interested voices are heard and how we ensure a variety of opinions and variety on options for engagement are provided. Both traditional and contemporary methods of community engagement need to be made available.

Public meetings, focus groups, online discussion forums and portals for individual input, including use of all forms of media is necessary to ensure all citizens have ready access to government.

The challenges associated with phenomena such as the NIMBY - Not In My Back Yard or if you are an MP - NIME - Not In My Electorate and the BANANA - Build Absolutely Nothing Anywhere Near Anything, do need to be considered. If MP's and parliaments seek to silence these voices or not give the opportunity for them to have their say, other problems can result and delays to projects etcetera can occur. Managing this aspect of public involvement in policy development is a challenge in all democracies.

If we are to question whether the modernisation of Parliament is about making Parliament more accessible and what this would look like, I believe that there needs to be a variety of means by which the public are able to participate in, and influence, public policy within a process or format they are familiar with. This will vary depending on whether the policy question has a narrow or broad focus and interest.

It is also necessary to ensure members of the public are well informed of the existing parliamentary processes that enable participation in the debate. This engagement needs to be in a format that is accessible and familiar to all citizens. This will require a rethinking within our parliaments around the use of technology and current and emerging forms of communication.

If we are to question whether the modernisation of Parliament is about restoring public confidence in politics and closing the apparent abyss between Parliament and the public, I believe this can only be done through a more open and inclusive approach. However the risks associated with the well resourced and vocal special interest groups hijacking debates and policy development are real and do need to be considered.

Similarly, if we are to question whether the modernisation of Parliament is about improving the image of Parliament in an attempt to address the perceived problem of declining public confidence in the political process, I believe the only way to do this is to provide an open and accessible process for engagement.

That open and accessible process for engagement may indeed need to be more substantial than conversations on Twitter. The real challenge for Parliaments in the modern era is in how we bring the community along with us in the debate in ways that enable them some ownership of the results and policy outcomes.

If the community do not experience a sense of ownership over the way they are being governed, they may detach further from the parliamentary process thus allowing more space for vocal special interest groups to dominate and to some degree control the public discourse.

We as politicians need to be able consult effectively so that implementation can occur in a productive and positive way. The reform of the Tasmanian forestry industry was, and is, always going to be a difficult process. Rushing of that process at different times as described, alienated a great number of stakeholders, and the outcomes suffered as a result.

One of the challenges for Members of Parliament in this is that when effective and broad engagement occurs, Members will become more fully informed and may find their existing views or beliefs challenged. In circumstances where the facts and or knowledge requires an MP to change their position, it can be perceived by the public as lying about a previously held view or position. If we are to build public confidence in the political process and in elected members, we need to develop and utilise processes that communicate the change effectively.

Informing the public of this change in a way that avoids media and likely public backlash is not easy.

'When the facts change my opinion may need to change' is a message that is not always easy to get across, however if we can restore confidence in our parliamentary processes and parliamentarians through effective communication is the first step. How we do that in a modern parliament is the remaining question.