

**Thursday 20 June 2019**

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

### **SUSPENSION OF SITTING**

[11.02 a.m.]

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

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

This is for the continuation of the briefings on the salmon industry.

**Sitting suspended from 11.02 a.m. to 12.50 p.m.**

### **RECOGNITION OF VISITORS**

**Mr PRESIDENT** - Honourable members, I welcome members of the McDermotts Travel Club who have joined us in the Chamber this afternoon. I hope we are in here a little longer than we were the first time we sat this morning.

**Ms Rattray** - I believe they are having lunch on the member for Rosevears.

**FIRST HOME OWNER GRANT AMENDMENT BILL 2019 (No. 24)**

**DISABILITY SERVICES AMENDMENT 2019 (No. 10)**

**REGISTRATION TO WORK WITH VULNERABLE PEOPLE  
AMENDMENT BILL 2018 (No. 65)**

**APPROPRIATION BILL (No. 1) 2019 (No. 21)**

**APPROPRIATION BILL (No. 2) 2019 (No. 22)**

### **Third Reading**

**Bills read the third time.**

**BIOSECURITY BILL 2019 (No. 15)**

### **Second Reading**

[12.54 p.m.]

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

That the bill be now read the second time.

Tasmania's agrifood production had the estimated gross value of \$2.4 billion in 2016-17 and the combined agriculture, forestry and fishing sector employs about 13 000 Tasmanians.

Then there is tourism and hospitality, which provides direct employment for 15 000 Tasmanians and contributes around \$2.3 billion per annum to the state economy.

The growing success of these industries is, in no small part, due to the Tasmanian mainland and its many smaller islands being free from many of the pests and diseases rife elsewhere.

Biosecurity is essential to our state's agricultural productivity and market access, to our reputation for high-quality primary products and to the health and beauty of our natural environment.

We face increasing challenges in managing biosecurity. Globalisation of trade, internet commerce and the modern ease of travel establishes new pathways for the introduction of pests and diseases to the state.

Climate change could mean Tasmania becomes a niche for invasive species that previously did not pose a serious threat to us.

In January 2018 we faced the first ever outbreak of Queensland fruit fly in this state.

We must all consider how to deal with such biosecurity threats across the biosecurity continuum - that is, before they reach the state border, at the border and after they have passed the border.

Tasmania needs a modern regulatory system that operates extraterritorially to cover the entire biosecurity continuum. One that provides an appropriate level of protection from the risks of new pests or diseases being introduced, and one with the capability to manage pests and diseases that, unfortunately, are already here.

Until now, we have managed our biosecurity under eight disparate pieces of legislation - namely, the Animal (Brands and Movement) Act 1984; Seeds Act 1985; Biological Control Act 1986; Animal Farming (Registration) Act 1994; Animal Health Act 1995; Plant Quarantine Act 1997; Weed Management Act 1999; and Vermin Control Act 2000.

Although these acts served us well, they were developed incrementally over three decades and in a piecemeal fashion. As a result, it was clear our biosecurity laws were becoming increasingly disjointed, duplicative and outdated.

The year 2014 saw the beginning of significant reforms to enhance the management of biosecurity in this state. The Government established Biosecurity Tasmania and initiated a comprehensive policy review of Tasmania's biosecurity system.

The review was to make sure Tasmania has practical, modern biosecurity legislation capable of furthering the principles and objectives of the Tasmanian biosecurity strategy, while minimising red and green tape for business and the community in general.

The initial review process involved input from industry groups such as the Tasmanian Farmers and Graziers Association, Tasmanian Seafood Industry Council, the then Primary Industry

Biosecurity Action Alliance, Tourism Industry Council Tasmania, local government and other key stakeholders such as the Tasmanian Conservation Trust and Invasive Species Council.

A draft position paper setting out policy positions for proposed regulatory reform was released for public consultation in March 2016 and a draft future direction paper outlining a new legislative framework for biosecurity was released in November the same year.

In line with the main recommendation of this review, the Government decided to replace seven of Tasmania's biosecurity-related acts with a single piece of framework legislation - the Biosecurity Bill now before the House.

For the sake of maintaining national consistency, it was determined one of our eight existing biosecurity related acts - the Biological Control Act 1986 - should remain as a standalone act. That act - which we recently amended - is part of a national scheme of uniform legislation to regulate the release of biological control agents, such as rabbit calicivirus, across Australia.

The Biosecurity Bill now before the House overhauls and consolidates Tasmania's biosecurity laws and aligns Tasmania with the recent biosecurity reforms of New South Wales, Queensland, Western Australia and the Commonwealth.

The bill has six equally important objectives.

First, to ensure responsibility for biosecurity is shared between government, industry and the community.

Second, to protect Tasmania from threats posed by pests and disease to land- and water-based industries and environments, public health and public amenities, community activities and infrastructure.

Third, to provide a robust and fair regulatory framework for biosecurity in Tasmania based on sound risk assessment and evidence.

Fourth, to give effect to state, national and international biosecurity agreements and strategies such as the Tasmanian Biosecurity Strategy.

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

## **QUESTIONS**

### **Office of Tasmanian Assessment, Standards and Certification - External Review**

**Ms RATTRAY question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT -**

[2.32 p.m.]

Leader, with regard to the Office of Tasmanian Assessment, Standards and Certification - TASC - and the External Assessment Processes Review 2018 undertaken by independent consultant John Firth -

- (1) What actions have been implemented to address the recommendations of the report?
- (2) What broader issues were raised in meetings and in survey responses during the review?
- (3) In the current situation around the information and communications technology competency test in particular, where students do not meet the satisfactory completion due to the combination of courses, is TASC reviewing the time frames and combination of courses under the current rules? Where the test is undertaken on 9 August and results are not received until October, the test cannot be retaken until November - around exam time - which for a student in year 12 means it is possible they will not receive a Tasmanian Certificate of Education regardless of the Australian Tertiary Admission Rank they attained.

I tried to shorten this question but it was impossible.

## ANSWER

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

- (1) The External Assessment Processes Review outlined 20 recommendations made by John Firth and an additional four recommendations by WLF Advisory - 24 in total. All recommendations were accepted and have been, or are in the process of being, implemented. Recommendations include -
  - a refined recruitment process to streamline appointment of sessional staff
  - establishment of a register of approved marking coordinators, markers and supervisor coordinators
  - a progressive marking schedule for examinations
  - early publication of the exam timetable
  - establishment of a marking coordinators' feedback group to provide advice on marking of external assessments
  - establishment of an examination centre working group that advises on the development of clear policy principles and procedures for the establishment of examination centres
  - improved communication methods with TASC sessional staff and schools
  - functionality in the new student management system - TRACS - has been developed to support external assessment processes
  - additional resources for sessional staff and appointments for key roles that will assist with external assessment processes
- (2) The outcomes of the External Assessment Processes Review are extensively documented on the TASC website. You can find all these there, and they include -
  - TASC external assessment process review 2018 by John Firth.

- Report marking loads and payment rates for markers 2018 (WLF).
- Appendix 1, which is a graph, Growth of written external assessment administered for TASC accredited courses.
- Appendix 2, Marking coordinator survey responses 2018.
- Appendix 3, Marker survey responses 2018.
- Appendix 4, Supervisor coordinator survey responses 2018.
- Appendix 5, TASC review consultation schedule; and
- TASC response - External Assessment Processes Review - key findings and recommendations.

You can find them all on the TASC website.

- (3) To achieve a Tasmanian Certificate of Education, TCE, students must achieve all five standards of the TCE. To be eligible for an ATAR in Tasmania a student must also have achieved the TCE. Students who do not meet the three everyday adult standards - reading, writing in English; mathematics; and use of computers and the internet - as part of their course of study in years 11 and 12 can undertake a safety net test offered by TASC twice each year to provide students with opportunities to achieve that standard.

## **BIOSECURITY BILL 2019 (No. 15)**

### **Second Reading**

**Resumed from above.**

[2.37 p.m.]

**Mrs HISCUTT** - Mr President, I will continue the second reading of this bill.

Fifth, to facilitate the trade of Tasmanian produce by ensuring it meets national and international biosecurity requirements.

Finally, to promote compliance with a general biosecurity duty through emergency preparedness, effective enforcement measures, and communication and collaboration between government, industry and the community.

This new legislation will also form part of the Tasmanian Resource Management and Planning System and furthers the general RMPS objective of promoting sustainable development, which is, in a nutshell, to ensure the use and development of our natural resources meets the needs of the present, without compromising the ability of future generations to meet their own needs.

What reforms will be introduced by this bill to achieve these objectives?

The bill introduces a range of new legal concepts and definitions that reflect the terminology now used in contemporary biosecurity systems of Australia and overseas.

I want to explain some of these concepts because they are critical to understanding the bill.

The bill establishes the concept of biosecurity matter - which is any animal, plant or other organism apart from a human being. It includes animal and plant pests and diseases, disease agents, prions (a particular form of biological matter implicated in animal diseases), contaminants and animal and plant products.

For example, bovine animals and foot-and-mouth disease (a disease that affects bovines) would both fall within the definition of biosecurity matter.

The bill also defines a carrier of biosecurity matter.

A carrier includes any living or non-living thing that has, or is capable of having, biosecurity matter on it, attached to it or contained in it. For instance, a vehicle may be a carrier of a cow, while the cow in turn may be a carrier of foot-and-mouth disease.

Examples of carriers include vehicles, animals and plants (dead or alive), soil, sand, gravel and material such as packaging, clothing and agricultural equipment. A carrier does not include a human being, but it does include things that are worn or carried by a person such as clothing, footwear, and personal baggage.

Most human activities involving biosecurity matter or carriers fall within the bill's definition of dealings.

Common examples of dealings include, keeping, breeding, selling or transporting biosecurity matter or carriers; importing biosecurity matter or carriers; propagating, growing, cultivating, experimenting with or supplying biosecurity matter or carriers.

Dealing also includes arranging for or causing a dealing to occur. A person who arranges for biosecurity matter to be imported into Tasmania via the internet, will be dealing with the biosecurity matter for the purposes of the act.

Finally, there are the concepts of biosecurity impact and biosecurity risk.

A biosecurity impact is, to paraphrase the bill's definition, an adverse effect on our environment, community or economy arising from the presence, spread or increase of any plant or animal pest, disease or contaminant.

The loss of market access for fruit exporters associated with an incursion of fruit fly in the state - an economic impact - is an example of a biosecurity impact. As are the environmental impacts of a plant disease like myrtle rust on our wild native flora, or the impacts of an animal pest like European carp on our inland waterways.

A biosecurity risk is simply the risk of a biosecurity impact occurring.

These are certainly not the only new legal concepts in this bill. However, they are key to understanding many of the bill's main features, which I will now move on to explaining.

I indicated earlier this new bill is in the nature of framework legislation.

As framework biosecurity legislation, it sets out the overarching legal concepts, principles, functions and machinery to support biosecurity management in Tasmania. But it also enables more detailed measures to be tailor-made for managing specific issues, activities or impacts and implemented via subordinate legislation.

As the House knows, before any subordinate legislation is made it must, in accord with the Subordinate Legislation Act 1992, be assessed by the Department of Treasury and Finance to not impose any unreasonable cost or burden on any part of the community. A regulatory impact assessment involving public consultation must be carried out unless the secretary of Treasury determines it is not necessary.

For example, if a new fee or levy is set by regulations made under this bill, it would be open to review and disallowance by either House of parliament, as is the case for all subordinate legislation.

An example of an existing biosecurity system that will be implemented through regulations under the bill is the National Livestock Identification System. As most farmers could tell you, the NLIS is a national scheme for the identification and traceability of livestock sold or moved anywhere in Australia. It is recognised as a world-leading biosecurity initiative and was established because animal traceability is fundamental to managing both animal health and the integrity of food produced from livestock - predominantly meat and dairy produce.

Tasmania implements the NLIS under the Animal (Brands and Movement) Act 1985. That act, which is more than 30 years old, is cumbersome and outdated, and will be replaced by this bill.

Unlike Tasmania, other states implement the NLIS through regulations made under their overarching biosecurity or animal health legislation rather than through a special NLIS-related act.

Using regulations under Tasmania's new biosecurity legislation to implement the NLIS is a sensible reform, one that will bring us into line with other states.

The bill includes improved governance with industry engagement enshrined.

The bill establishes the Minister for Primary Industries and Water, and the secretary of the Department of Primary Industries, Parks, Water and the Environment (which I will simply refer to as the Department) as the two key decision-makers, who can delegate their powers.

The two principal authorised (scientific) officers are the Chief Veterinary Officer and the Chief Plant Protection Officer, both of which have deputy positions attached. The Chief Plant Protection Officer is a new statutory position created under the bill.

Under the bill's framework, high-level decisions that are likely to have broad strategic, social, economic or environmental ramifications are the responsibility of the minister.

These include decisions on the listing of permitted, prohibited or restricted matter, issuing emergency orders and control orders, approving biosecurity programs, and reimbursement schemes.

The secretary is primarily responsible for high-level administrative functions such as appointment of authorised officers, business registration, approval of accreditation authorities, granting of general permits and general biosecurity directions, and government cost recovery.

The Chief Veterinary Officer, the Chief Plant Protection Officer, their deputies, and regular authorised officers will be responsible for most day-to-day technical and operational functions under the act. These officers (on the ground) are likely to be first responders in a biosecurity emergency.

Importantly, the bill requires the minister to establish a biosecurity advisory committee with broad representation from industry and other community groups to provide advice to the minister (or secretary) on biosecurity-related issues referred to it. No such committee exists under the seven pieces of legislation to be replaced by the bill.

In line with the new biosecurity acts of New South Wales and Queensland, the bill introduces a statutory general biosecurity duty. This duty provides any person dealing with biosecurity matter or a carrier who knows, or ought reasonably to know a biosecurity risk is posed or is likely to be posed, has a legal duty to ensure, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised.

The general biosecurity duty will operate as a statutory duty of care in respect of biosecurity. It is legally enforceable and noncompliance with the duty may be penalised by criminal sanction, as is now the case in New South Wales and Queensland.

Tasmania's Biosecurity Bill makes it an indictable offence for a person who deals with biosecurity matter or a carrier to breach the general biosecurity duty.

A significant breach that is intentional or reckless will be an aggravated offence that carries the highest maximum penalty in the bill.

An example of an aggravated breach of the general biosecurity duty would be a person causing a significant biosecurity impact by deliberately releasing an invasive pest, such as live fruit fly or European carp, into the Tasmanian environment.

This bill is more evolutionary than revolutionary. We are building on what has been successful to date in protecting our biosecurity status. Our new legislation will retain many of the components of the existing legislation, albeit in modernised and improved form.

A good example of this is an improved system for regulating the importation of plants, animals and other material into Tasmania from interstate, and the management of them once they are here.

The bill does away with the confusing and opaque listing regime we currently use. To illustrate that point, I want to go through some of the discrete statutory list categories we now have in our existing legislation.

Under the Animal Health Act 1995 we can have: List A diseases and List A disease agents; List B diseases and List B disease agents; listed animals and listed animal products, relevant listed animal diseases and restricted material.



Under the Plant Quarantine Act 1997 we can have: List A plant pests, List B plant pests, List A plant diseases and List B plant diseases; prescribed matter, prohibited plants, and prohibited plant products.

Under the Weed Management Act 1999, we can have declared weeds, emergency declared weeds, and non-declared weeds.

Under the Vermin Control Act 2000 we can have rabbits, foxes, other (unspecified) declared vermin and non-declared vermin.

And under the Animal Farming (Registration) Act 1994 we can have a list of prescribed animals which at present comprises one animal - the emu.

None of our existing legislation provides express criteria or guidance in respect to listing decisions, or explanation of what their list categories actually mean. It is all left open to interpretation.

By contrast, the new Biosecurity Bill has only three self-explanatory list categories: prohibited matter, permitted matter, and restricted matter.

All are listed in the same way, under the one act and in accordance with clearly expressed statutory criteria relating to biosecurity risk.

Prohibited matter is biosecurity matter or carriers of greatest concern. It must be assessed to pose a significant biosecurity risk to Tasmania. For example, most current List A and List B pests and diseases - under existing biosecurity legislation - would be likely be classed as prohibited matter under the new legislation, and declared by notice in the Gazette.

A person cannot possess or deal with prohibited matter without a special permit - a prohibited matter permit.

Permitted matter is biosecurity matter of least concern. It is assessed to not pose a biosecurity risk to Tasmania - or an acceptable risk that is manageable with conditions.

Permitted matter is declared by formal notice in the Gazette following risk assessment. It can be brought into Tasmania without a permit so long as any conditions relating to import and dealing with the matter are followed. A failure to comply with a listing condition will disqualify the relevant biosecurity matter from being considered permitted matter. This means it will revert to being restricted matter in respect to importation into the state.

And restricted matter is a catch-all which covers any plant or plant product, animal or animal product - or a plant or animal disease - not listed as either prohibited matter or permitted matter. The minister may also declare some restricted matter in the same way that prohibited or permitted matter is declared.

Restricted matter cannot be imported into Tasmania without a permit.

This approach, known in the biosecurity world as a permitted list system, embodies the precautionary principle and is used in Western Australia and New Zealand.

It is particularly suited to geographically isolated jurisdictions such as Tasmania where - with our maritime borders - we have greater ability to control imports from other states. It provides a consistent, proactive approach to assessment of imports rather than a reactionary system.

Listing will be by ministerial declaration and notified in the Government Gazette. An objective statutory test is included to ensure there is solid evidence to support the declaration.

An objective statutory test means the minister of the day must have reasonable grounds (normally - appropriate scientific advice and assessment) on the level of biosecurity risk before making a decision to declare something as either prohibited or permitted.

This bill establishes a system of enterprise level regulation that corresponds with the newest systems of other states and the Commonwealth.

Group and individual permits may be granted, which can authorise a person, or classes of persons, to engage in activities that would otherwise contravene the act.

Permits are a key biosecurity management tool because they allow action by exception and have valuable roles both in emergencies and business-as-usual situations.

For example, a permit might allow a person to import restricted matter, or deal with prohibited matter, or move cattle during a foot-and-mouth disease emergency. These are all things that would otherwise be unlawful.

The bill also provides certain dealings with biosecurity matter or carriers may - by regulation - be made regulated dealings.

In order to undertake a regulated dealing a person must become a registered entity.

Registration allows for the rapid identification and tracking of activities, which facilitates quick contact with those engaged in the activity in times of need.

I note this was recommended by the Legislative Council Government Administration Committee B Sub-Committee in its recent report on blueberry rust in Tasmania.

Recommendation 7 of the committee's final report is for -

A comprehensive grower database and a system of property identification be developed for blueberry growers that can be applied across other industries.

The biosecurity registration system in this new legislation will help deliver on that recommendation for blueberry growers and other industries.

For example, commercial beekeeping could be prescribed as a regulated dealing. It would then be compulsory for a person to be registered in order to participate in the honey industry. And it is worth noting that beekeeper registration has been compulsory in all other states for a number of years, under the National Bee Biosecurity Program.

In the event of a disease outbreak involving commercial honey bees - like colony collapse disorder occurring in North America and Europe - the number and location of Tasmania's beekeepers would be known, allowing rapid communications and tracing of the disease spread.

Without a registration system, the disease could prove impossible to trace and thus impossible to control.

Registration is by the secretary, or a delegate of the secretary and will be valid for the dealing or dealings specified in the registration notice for up to five years.

It is anticipated this registration system will - among other things - replace the system of approved quarantine places for receiving plant imports, that has been operating under the Plant Quarantine Act 1997 for the last twenty odd years.

An advantage of the new registration system - over the old system of approved quarantine places - is a business can operate across multiple sites under the one registration.

Under the Plant Quarantine Act, each site needs a separate approval as a quarantine place - even where all sites involve the same activity and are managed by the same person.

Registration can be with or without conditions. If commercial supply of biosecurity matter or carriers of a particular type (say fresh fruit and vegetables) was made a regulated dealing, then registration to undertake the activity could be conditional upon certain hygiene or transportation standards being met and verified by independent audit; or product inspection and certification under a recognised industry certification scheme.

This leads to another important new feature of this bill as it promotes shared responsibility for biosecurity and co-regulatory arrangements with the private sector.

The bill provides opportunities for business to choose to work cooperatively with others in their industry sector, or with government, to manage biosecurity risks and impacts.

We already have some examples of self-management. TT Line personnel undertake clearance of in-bound movements at embarkation in Melbourne and Tasmanian cherry exporters may be accredited to inspect their own produce.

The bill enables the state Government to recognise non-government organisations as accreditation authorities, who in turn may accredit private certifiers and auditors to audit and inspect business operations, and provide product certification.

Among other opportunities, this could see government recognising industry-based quality assurance schemes for regulatory purposes, where appropriate.

One such scheme already operating across Australia is the Interstate Certification Assurance Scheme - a national system of plant health certification based on quality management principles.

The problem with our existing biosecurity legislation - particularly the Plant Quarantine Act - is they are not specifically designed to regulate the operation of industry certification schemes. As we saw with the recent fruit fly incursion, these schemes can sometimes fail to deliver intended outcomes.

For example, a situation may arise where someone on the mainland, who is not appropriately accredited to perform that task, is certifying produce as being pest free, enabling the importation of high-risk material to Tasmania.

To avoid those sorts of problems with industry schemes, we need a robust legal framework to govern their operation here and this new bill provides that. Under the new legislation, industry-based biosecurity certification, auditing and accreditation activities will - to the extent they are connected with this state - be subject to regulatory oversight by Biosecurity Tasmania, even where some of the activity occurs on the mainland. A private certifier who fails to meet with Biosecurity Tasmania's regulatory standards can have their accreditation to operate in Tasmania cancelled or suspended and may even face criminal sanctions in certain circumstances.

The bill also provides a legal structure for the development and implementation of biosecurity programs. These can be administered by government, or by an industry group like Oysters Tasmania, Fruit Growers Tasmania or a non-profit environmental organisation such as Landcare or the Tasmanian Land Conservancy.

Biosecurity programs could be established to eradicate weeds or feral animals from a particular area or region or to promote the adoption of industry-wide disease control and prevention measures by a particular commodity sector.

Biosecurity programs must set out in writing the actions which the various parties will undertake and also how the program's costs will be met. This may be through sector - or industry - specific mechanisms, co-funding by Government or other means.

This bill sets out the range of circumstances in which owners of plants, animals or other property may be reimbursed for biosecurity-related loss of that property.

Currently in Tasmania, reimbursement - in respect to biosecurity - is effectively limited to animals or plants destroyed in a biosecurity response when it is covered by one of several national cost-sharing deeds entered into between the states, Commonwealth and relevant industry body. These deeds typically only cover pests and diseases that are exotic to Australia. They do not cover pests and disease that originate within Australia - such as Queensland fruit fly.

This shortcoming was evident in recent state-based responses such as blueberry rust where landholders were unable to be directly recompensed for the loss of plants destroyed on their properties.

Under this bill, owners will be entitled to reimbursement for the death or destruction of animals, plants, or other property in the following circumstances:

- where the animal, plant or property is covered by a biosecurity cost-sharing agreement which provides for reimbursement; or
- where it is destroyed under a government biosecurity program which specifically provides for reimbursement; or
- where it is destroyed under an approved - industry or community - biosecurity program which specifically provides for reimbursement; or

- otherwise in circumstance that may be prescribed by the regulations.

To maintain general affordability and to prevent creating situations of moral hazard, there will be no statutory entitlement to reimbursement for indirect or consequential losses associated with biosecurity responses - such as compensation for loss of potential profits or future income. Nor for the death or destruction of any animal, plant or other property that is connected with a breach of the act by or on behalf of a claimant.

The scope and nature of reimbursement schemes will be determined through proper consultation with relevant stakeholders and the general public. Of course, this process would need to include discussion around the proportion of funding for reimbursement that is appropriately provided by the public purse, versus those involved in activities associated with biosecurity risks.

Like the legislation it replaces, this bill provides the necessary legal framework for dealing with biosecurity emergencies.

The state will continue to be guided by national approaches - such as national emergency response deeds and agreements. However, these will be implemented through a simpler and more flexible regime of statutory instruments.

The bill establishes a three-tiered hierarchy for biosecurity emergency management. The choice of which statutory instrument to use is determined by the relative urgency of the response required.

In the most urgent situations, the relevant minister of the day can make an emergency order, which will expire after six months, unless remade.

A court cannot issue an interim or interlocutory injunction to stay the operation of an emergency order; however, a court is not prevented from making final orders to that effect.

Where the risks of a biosecurity impact are significant, but do not require the same degree of urgency as an emergency order, the minister can make a control order. A control order can be in effect for a period up to five years without needing to be remade.

And where long-term management of a biosecurity issue is required, biosecurity zones can be made by regulations. These will generally be ongoing until the risk or impact being managed is addressed or accepted. However, as the House knows, regulations normally expire after ten years, unless remade.

Biosecurity zones could target established populations of animal pests such as feral rabbits, cats or weeds such as gorse, blackberry. Or alternatively, a particular region or part of Tasmania's archipelago, such as Flinders Island, or Maria Island, could be made a biosecurity zone, to enable the application of particular management measures in that area.

While emergency orders may mandate special measures, such as requiring people to undergo an external treatment to decontaminate their clothing before entering or leaving an area, the types of measures will likely be similar across all three tiers of biosecurity response.

Response measures may include but are not limited to: spatial zones or areas where different biosecurity requirements apply; measures to control the movement of biosecurity matter and

carriers; and measures relating to the treatment, seizure, testing, destruction and disposal of biosecurity matter and carriers.

Both biosecurity zones and control orders can also be used in conjunction with, or to complement, biosecurity programs.

At present, a Tasmanian biosecurity officer who is authorised to exercise powers in relation to plants under the Plant Quarantine Act 1997 would require another separate authorisation under the Animal Health Act 1995, in order to exercise similar powers in relation to animals.

Under the new act, the appointment and functions of authorised officers will be streamlined and far less prone to confusion or error.

Mr President, as an aside. I note there are other members in the Chamber who are probably ready for a second reading speech. Are they?

Would it be appropriate at this stage to table the balance of the second reading speech?

**Mr Valentine** - There would be people listening.

**Mr Dean** - It ought to be continued. Other people might be listening in. That is the issue.

**Mr PRESIDENT** - If the Leader wishes to take a break and have a drink, we will proceed through with it. It is a very lengthy record but when you feel like a break, members will be understanding.

**Mrs HISCUTT** - I will continue.

The bill requires the secretary to be satisfied any person appointed as an authorised officer holds appropriate knowledge, skills and experience to perform regulatory functions under the act. The bill also enables the minimum qualifications, skills and experience of authorised officers to be prescribed by regulation. And following feedback from stakeholders in the last round of public consultation, a requirement was added for the secretary - who appoints authorised officers - to be satisfied a person is suitable or fit and proper to be appointed as an officer.

All authorised officers will be operating under the same piece of legislation and be able to exercise common functions in relation to all biosecurity risks, as opposed to having discrete powers applying to plant and animal biosecurity under different acts.

This reform will simplify the task of training and supporting authorised officers in the performance of their work. It will greatly improve the ability of Biosecurity Tasmania to carry out its regulatory responsibilities in a consistent and efficient manner.

Officers will have a similar range of powers and functions under the new legislation to what they have under existing legislation. But their functions can only be used for an authorised biosecurity-related purpose under the act and have limits placed on them in certain circumstances.

For example, an authorised officer cannot destroy anything over the value of \$5 000 unless he or she is specially authorised to do so, or is acting under a control order, emergency order or specific power granted in regulations.

When carrying out any functions on any private property, officers are under a statutory obligation to exercise due care and do as little damage as possible.

And officers are empowered to use only reasonable force when it is necessary to gain entry to premises or vehicles, or open containers and other equipment for an authorised purpose.

This bill also promotes a flexible, risk- and performance-based approach to compliance, which includes measures to avoid the need for costly criminal investigations and prosecutions in every case.

Two such measures in the bill are biosecurity directions and biosecurity undertakings. These can be used when a person is engaging in activity that contravenes, or may contravene a requirement of the act.

A biosecurity direction is a formal order issued by an authorised officer or the secretary requiring a person to do something, stop doing something, or change the way they are doing something in order to comply with the act. For example, a direction could be given to ensure a person takes certain actions to comply with the general biosecurity duty.

A biosecurity direction can be individual or general. An individual biosecurity direction may be given by an authorised officer and applies to a specific person or business.

A general biosecurity direction may be given by the secretary, or delegate, the Chief Veterinary Officer and the Chief Plant Protection Officer. It can apply to the general public, or to a specified class of persons.

In cases of emergency, an emergency biosecurity direction, both individual and general, may cover wider powers of inspection or control.

A right of appeal lies against an individual biosecurity direction, but not a general biosecurity direction or an emergency biosecurity direction.

As an alternative to issuing an individual biosecurity direction, an authorised officer may accept a written biosecurity undertaking from a person.

Undertakings - which will not be treated as an admission of criminal wrongdoing - are offered and accepted by mutual consent, as a way of achieving compliance in an agreed time and manner.

However, once accepted, a biosecurity undertaking will be enforceable. Noncompliance with either a biosecurity direction or an accepted biosecurity undertaking will be an offence under the act.

In relation to biosecurity offences, we need appropriate penalties to serve as an effective deterrent against unlawful activity.

The bill - and regulations to be made under it - will create biosecurity-related offences and other mandatory requirements that are specific. The bill refers to these as specified biosecurity requirements.

Where a person has committed a specific biosecurity offence, such as breaching a permit condition, the person may be charged with the specific offence or alternatively the offence of breaching the general biosecurity duty, or both. The general biosecurity duty will also apply to any risks not covered by specified biosecurity requirement.

However, to prevent double jeopardy of punishment, a person found guilty of two or more biosecurity offences arising from the same conduct can only be punished for the most serious offence.

Under Tasmania's current legislation, maximum fines and limitation periods for biosecurity offences are disproportionately low in comparison with other states.

Tasmania's highest maximum biosecurity fine on 2016 rates was almost \$70 000 less than Western Australia, the lowest of the other states with a single biosecurity act, and more than \$2 000 000 less than the highest, New South Wales.

Furthermore, biosecurity investigations can be complex and it often takes time to detect a statutory breach or determine the cause of a biosecurity impact.

But the limitation period for prosecuting an offence under both the Animal Health Act and Plant Quarantine Act is six months from the date of the offence - basically the default time limit for minor summary offences in the Justices Act 1959.

In practice, six months is often not enough time to allow a proper investigation of a biosecurity incident to be completed and risks an important matter not being able to be progressed to court.

This bill extends the limitation period for commencing a prosecution to three years from the date of the offence, with the possibility for that to be extended further by the court in special circumstances, such as when discovery of an offence was delayed due to fraudulent behaviour on the part of the offender.

The bill will also introduce a three-tiered penalty regime that matches the nature and gravity of biosecurity offences.

The highest penalty is a 10 000 penalty unit fine for a corporation - \$1 630 000 on 2018-19 rates or four years imprisonment for a natural person.

This penalty will only apply to cases where a person is convicted of an intentional or reckless breach of the general biosecurity duty, resulting in a significant biosecurity impact.

The next level is a maximum fine of 3750 penalty units for a corporation, or two years imprisonment for a natural person. This will apply to an offence requiring proof of fault or negligence, such as a breach of the general biosecurity duty that was negligent, rather than reckless or intentional.

The third level is a 2500 penalty unit fine for a corporation or 500 penalty unit fine for a natural person. This is the standard maximum penalty applying to most offences in the act, including offences of strict liability, such as importing restricted matter without a permit.



I will finish my outline of the bill's features with its provisions for natural justice and transparency in administrative decision-making.

Like other RMPS legislation, the bill provides appropriate rights of appeal to the Resource Management and Planning Appeal Tribunal - hereafter, the tribunal - for decisions that directly concern private interests.

Appeal is available for decisions about individual biosecurity directions; biosecurity registrations; accreditation as a biosecurity certifier; appointment as an auditor; approval as an accreditation authority; claims for reimbursement; cost recovery orders; and individual permits.

Appeals to the tribunal are not available in respect to high-level decisions applying generally to the public or to broad classes of people. Examples of such decisions include emergency orders and control orders; listing declarations by the minister; and the issuing of a group permit or general direction by the secretary.

Nor is appeal to the tribunal available for decisions in respect to emergency permits or directions, permits relating to prohibited matter, known as prohibited matter permits, or permits authorising a prohibited dealing, known as prohibited dealing permits.

However, the Government is fully committed to upholding the principles of natural justice, and ensuring officers performing functions under the act meet the highest ethical and professional standards. Decisions or conduct that cannot be appealed on the merits to the tribunal can still be reviewed administratively within the Department or by the Tasmanian Government Ombudsman.

The Supreme Court can also review the government's biosecurity decisions on a range of legal grounds. For example, a denial of natural justice, manifest unreasonableness or failure to consider relevant evidence.

That is the normal right of review under the Judicial Review Act 2000, available to an aggrieved person with a proper interest in the subject matter of a government decision.

The Judicial Review Act also enables an aggrieved person to request written reasons for a decision made under the act. For example, an industry representative or other affected person can request the minister provide written reasons for a decision to prohibit imports of certain products; or a decision to make an emergency order under the Biosecurity Act. The minister must then, by law, provide written reasons for the relevant decision within 28 days.

A request for reasons can be made whether or not the person making the request wishes to appeal against the decision or go through a court process.

In response to stakeholder concerns, we have also added a requirement in the bill in respect of control orders, for the minister to specify reasons for a decision to manage, rather than attempt to eradicate, a new disease or invasive pest found in the state.

In any event, it is the Government's intention we will be proactive in the active disclosure of statements of reason for high-level decisions made by the minister and secretary under the bill.

Along with appeal provisions, the bill requires publication of a Tasmanian biosecurity compendium on the department's website to aid in transparency, and promote public awareness of Tasmania's biosecurity requirements.

The compendium will contain up-to-date lists of all prohibited matter, permitted matter and restricted matter declared under the act. It can also include any explanatory and supporting information concerning listing decisions and other biosecurity requirements the secretary considers appropriate. A good example would be information on how to comply with the general biosecurity duty in particular situations.

Access to the biosecurity compendium will be free and I anticipate it will quickly become an invaluable plain language resource. One that contains forms, guidelines and supporting information necessary to assist the business community and the general public to understand and comply with Tasmania's biosecurity laws.

This bill represents one of the most significant reforms of Tasmania's agricultural and environmental laws in decades. It is very important for Tasmania we get it right. That is why we had such a thorough and lengthy public consultation process to develop the bill. It has been an exacting process, but well worth the effort.

And the Government would like to acknowledge and thank the stakeholder groups and individuals who have engaged with the Government in good faith and over an extended period, to provide submissions and feedback to assist in the formulation of this bill. These include, but are certainly not limited to: the Tasmanian Farmers and Graziers Association, Tasmanian Seafood Industry Council, Fruit Growers Tasmania, Wine Tasmania, Poppy Growers Tasmania, the Tasmanian Agricultural Productivity Group, Primary Employers Tasmania, Oysters Tasmania, Nursery and Garden Industry Australia, Tourism Industry Council, Primary Industry Biosecurity Action Alliance, the University of Tasmania, and the Tasmanian Conservation Trust.

Thanks to their efforts and others, we now have a better bill, which has broad support within primary industry and the general community. To give the House some added comfort in regard to this, I would like to take the opportunity to quote some recent feedback on the bill from stakeholders. The first is from a letter the TFGA provided to the Department in March of this year -

The TFGA is grateful for the opportunity to make comment on the revised Biosecurity Bill. The TFGA believes this bill is vital to the protection of Tasmanian agricultural industries. The amalgamation of a single bill covering biosecurity within the state, is important to ensure streamlined and effective legislation.

TFGA has been involved with revision of the Biosecurity Bill since 2017. We have worked closely with the Department of Primary Industries, Parks, Water and the Environment during this time and worked through several versions of the bill.

The TFGA was glad to be able to once again consult with the Department and discuss the current version of the bill. After a productive consultation with the Department, the TFGA is comfortable with the current version ...

The next words are from Fruit Growers Tasmania, a group whose members were directly impacted by the recent Queensland fruit fly crisis, the largest and most expensive biosecurity emergency Tasmania has faced in modern times -

This bill has undergone an extensive, iterative consultation process since 2014, which has enabled all Tasmanian industries to provide input and engage with government on this issue throughout the review process.

As a peak industry body for Tasmania's fruit sector, Fruit Growers Tasmania (FGT) strongly supports the proposed introduction of a general biosecurity duty, which clearly lays out the expectations and responsibilities of both agriculturalists, service providers, and members of the general public. FGT is supportive of the overarching structure of the proposed act, which will provide a holistic approach that eliminates any potential gaps between the existing Acts.

In consideration of all [its] improvements over the existing legislation, FGT strongly supports the proposed Biosecurity Bill (2019). In our view, it represents a legislative framework for biosecurity management that is transparent and fair, yet also flexible and adaptive to Tasmania's evolving biosecurity needs.

Of course, while the Government is pleased to hear there is stakeholder support for the bill, we must not take it for granted and our work does not finish when the bill receives royal assent. The implementation of any major new legislation like this bill will require the development of new administrative practices, regulations, programs and standards. In leading that process, the Government will consult widely and will work with primary producers and other stakeholders towards our common goal, which is ultimately to protect the Tasmanian environment, community and economy from biosecurity risks.

In conclusion, this bill will keep the biosecurity functions that have protected our state for the last thirty years, but will streamline and modernise them so they can continue protecting us for the next thirty years. At the same time, the bill will give us new tools to manage the types of biosecurity threats, and the opportunities, that may arise in the future.

Seven acts will be reduced to one, making our biosecurity system simpler, easier to understand, and more efficient.

And the basic responsibilities for managing biosecurity risk held by all Tasmanians, all visitors to Tasmania, and all who do business in our state will be given legal force through the general biosecurity duty.

Current and future generations of Tasmanians will recognise the introduction of this bill as a watershed in the development of our world-renowned primary industries, for the protection of our magnificent natural environment and our way of life.

The Government fully supports the introduction of this bill and I commend it to the House.

[3.27 p.m.]

**Mr ARMSTRONG** - Mr President, that is the longest second reading speech by a leader I have heard in this House but then again, I have not been here that long.

**Ms Rattray** - It might be the longest one I have heard in my time. I cannot recall another one.

**Mr Valentine** - Forestry.

**Mr ARMSTRONG** - Possibly, the forestry debate before I was here.

I cannot profess to understand all of what is contained in this bill, but it has been four or five years in the making. It has involved an extensive public consultation and is supported by stakeholder groups such as the Tasmanian Farmers and Graziers Association, Fruit Growers Tasmania et cetera. Being ticked off by these types of stakeholders goes a long way to getting my support. Even this morning in our briefing with the Tasmanian salmon industry, they put their support behind this legislation.

I will support anything that strengthens our threats from blueberry rust, myrtle rust, fruit fly, European carp or any other threat to our agriculture, aquaculture, forestry, tourism and fishing industries that are vital to my electorate and to the state economy more broadly. This bill does that.

I especially like the idea of a biosecurity advisory committee that involves industry and government sharing of responsibility inherent in this bill.

I like the requirement for the publication of a Tasmanian biosecurity compendium which will promote public awareness of Tasmania's biosecurity requirements. The compendium is said to provide a free, plain language resource that contains forms, guidelines and supporting information necessary to assist the business community and general public to understand and comply with our biosecurity laws. That is to say something I might or could understand.

Mr President, I will be supporting this bill.

[3.29 p.m.]

**Mr GAFFNEY** (Mersey) - Mr President, I thank the Government for organising the briefings for us. They were very valuable.

Mr President, it is my pleasure to speak today in favour of the bill. I do not anticipate this legislation will be overly controversial, though given the importance of biosecurity to Tasmania, it is important I make some remarks in support of the bill. This is an area of rapid change and I commend the Hodgman Liberal Government for treating it with the high level of seriousness it deserves.

Mr President, the bill consolidates a number of existing laws. The purpose of doing so is to ensure that when the law needs to be changed quickly, everything can be found in the same document. To me that makes sense. The Department of Primary Industries, Parks, Water and Environment - DPIPWE - website illustrates the need for Tasmania's biosecurity laws to be consolidated.

It reads -

Up until now Tasmania's biosecurity has been managed under seven separate Acts. While these Acts have served us well, they were developed incrementally over three decades and in a piecemeal fashion. Consolidating Tasmania's

biosecurity laws into a single modern statute will ensure they remain 'fit-for-purpose' and do not become increasingly duplicative and outdated.

The Biosecurity Bill provides a simpler and more effective legal framework for the management of pests, diseases and invasive species, imports of plant and animal products, biosecurity emergencies and monetary reimbursement for biosecurity related loss.

In correspondence, the Ministry for Primary Industries and Water outlined the development of this bill. The draft bill provides a simpler and more effective legal framework for the management of a range of biosecurity matters. It has been developed through extensive consultation over an extended period and amendments have been made based on feedback with a small number of technical improvements made more recently to address issues identified during the Queensland fruit fly response.

Mr President, I commend the Hodgman Liberal Government for consulting with those who will be directly impacted by this legislation. It is only right the bill is tailored to suit their needs. Amending the law will also make it easy for Tasmanian industry to stay updated on its legal requirements.

A key aspect of government is to ensure that the business within its jurisdiction can trade unimpeded by external threats. One such external threat in recent years has been the presence of fruit fly, which was alluded to in the minister's letter. Many electorates, including my own of Mersey, were affected.

I am sure that honourable members will recall the concern that ensued when fruit flies were initially discovered in the state. Ideally this is a situation I am sure we would all like to avoid in the future. Nevertheless, it is reassuring to know we will be better prepared if it does happen again.

With regard to the Taiwanese ban on produce from inside exclusion zones, cherry grower, Howard Hansen, told the ABC in February last year -

We're in the first 15 minutes of a bushfire. The State Government are putting all their resources into getting on top of that bushfire before it escalates. Taiwan is probably the fourth or fifth most important market for Tasmanian cherries but the season is days away from being done and dusted for this year.

Mr President, the financial cost incurred as a result of fruit fly was devastating to many local businesses. Brett Rosendale, owner of Sheffield Berry Gardens made the following remarks to the ABC last April -

[It's] financially devastating, emotionally terrible. It's just heart-wrenching to spend your whole season doing something ready for market then it's pulled out from under you through no fault of your own ... We still have to harvest our fruit as we normally would. We have to have people come in and harvest it and we have to pay them, but we're not allowed to sell our product, so whatever money we made earlier in the year before the fruit fly affected us has been spent harvesting fruit that we have to freeze or dump.

Raspberries have been frozen and you hope to get something from them later, but the price for frozen raspberries is about the cost of production. That's before the fruit fly. Now that there is so much frozen fruit about the price has collapsed to half of what it was.

Mr President, this legislation will have a tangible impact on local businesses for years to come. I am certain it will receive the support of this House. I congratulate the Government and its staff on getting this bill before us.

[3.34 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I too thank the Leader for organising the briefings and the various groups for attending, as well as the department.

At the briefings we heard from the Tasmanian Farmers and Graziers Association - TFGA - which advised it had been involved with drafting the bill for some time and assisting Biosecurity Tasmania and DPIPW. It supports the bill as it stands and would like to see the bill passed as is. The TFGA also added it believed this is a good bill with a lot of positives.

Advice from Wine Tasmania is that the bill had gone through many iterations and was a consultative process. It is a big bill with seven acts into one, but it is a good bill and Wine Tasmania supports this bill.

We were advised at briefings that every issue they came across was taken on board and things were changed so that they had no issues now and concerns were all dealt with during the process. It is good to hear that because we often get people criticising and complaining that issues are not taken on board. It is good to see that when people had concerns, the department took them on board and dealt with them. The groups that came to see us now have no issues.

Some concerns they did have were around the powers of authorised officers, clear direction and notification; they felt there needed to be more detail around reimbursement and fewer guidelines around that. We were told the department took on board concerns. The process showed industry can work with government when drafting legislation to get a streamlined bill. Who knows? Maybe some other departments will take note of the process that we have had with the Biosecurity Bill.

Fruit Growers Tasmania put in a submission in 2016 and more recently. They advised there was strong support for the bill as it is a critical from the fruitgrowers' perspective. They were happy with the interaction from all the other sectors. This bill is a good outcome.

Members of Administration Committee B are well aware of the need for good biosecurity with regard to fruitgrowers, given our lengthy inquiry into blueberry rust.

We were told at the briefing that Fruit Growers Tasmania represents the majority of growers. We were further told there was faith that this bill will make it a more rigorous and better industry. Lloyd Klumpp has worked closely with some growers and there were valuable lessons learnt with the blueberry rust issue.

As for beekeepers, it appears Lindsay Bourke was involved in discussions. The beekeepers' biggest issue was around registration. This was addressed.

A question was raised at briefings about the inspection of produce and the balance between independent and self-inspection. Lloyd Klumpp advised, and I think I have this right, that with self-inspection there is a rigorous training process leading to accreditation and then there is an auditing process. Provision is already in the bill, in part 10, for accreditation. It should also be noted that inspecting your own produce is only for export purposes and not for import purposes. The Leader just might confirm I have that right.

I am pleased to see in part 9 of the bill provision to enable industry groups to put together a program relating to the prevention, elimination, minimisation, control or management of a biosecurity risk or biosecurity impact, and that this is a collaborative and cooperative process.

I also note the distinction between reimbursement and compensation and that in division 2 there is no provision for reimbursement in this section. However, we were advised there is nothing in this bill that precludes the government from providing extra compensation outside division 2 for consequential losses. I would be pleased if the Leader could confirm this as well.

My understanding is that reimbursement only relates to direct property losses. Other states are the same. There is a capacity for government to provide support for individuals or industry depending upon the actual incident and that clause 218(2) of the bill limits it to the direct impact under this provision, but does not prevent the Government from providing anything for consequential losses. Perhaps the Leader could confirm I have it as it should be. I would hate to mislead parliament with those comments.

It appears there is strong support for this legislation, and I support the bill.

[3.38 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, I thank the Leader for arranging the briefings. This is a large bill, with a large second reading speech, and she has covered all the ground. I do not think there is much left to say.

I have read much of this bill and have a little more to go. I hope to be able to finish it before we get to vote on it.

Biosecurity is an issue that impacts on all walks of life in Tasmania. It is a very serious matter. This bill has a lot of power and authority behind it. Section 172, an emergency order prevails to the extent of any inconsistency over biosecurity regulations, authorisations or approvals, exemptions or other rights or instruments granted or in effect under this act, has a degree of control over permits, a control order, a biosecurity program, control agreements and on and on it goes.

We are dealing with a very powerful instrument here. To some extent, if you look at this at face value, you think 'Heaven's above, this is a bit jackboot', but given the level of impact a biosecurity event can have on the state, it is important to know you can go in and take control where need be. If you do not take control, all of a sudden you have a major disaster on your hands, one that will affect employment, people's livelihoods and the whole state. It is important to have that level of control, but one hopes the measures in this bill are used in an effective, very careful way to make sure we can bring under control those things that happen from time to time in this state, such as blueberry rust and fruit fly incursion.

I can point to one that is a bit of a favourite of mine, the varroa mite in the bee industry. Should there ever be an incursion in this state, it could devastate what this state is all about - clean, green

produce coming out of Tasmania that is the envy of the other states and many countries across the globe. It is important we have the capacity to move quickly.

I commend those who have spent the time putting this bill of 342 pages together. You do not sit down and read this in a night, and especially you do not scrutinise it in a night. It takes many hours to scrutinise a bill like this to make sure that all the i's are dotted and the t's are crossed. I particularly thank those who have been hard at work dealing with this.

I have a question about some parts of this bill, whether it can effectively deal with, for instance, as we were dealing with in briefings this morning, aquaculture. Are the biosecurity aspects of aquaculture handled under the Marine Farming Planning Act and other acts like that, or will it be handled through this process and this act as well?

When you read some of the clauses in here, you think, 'Access to premises - a lease out there on the water is not really premises, but it is an area and it is a lease area'. Does it apply to aquaculture, for instance? There may be other examples of areas being farmed similarly that may not fit a certain image of what is trying to be achieved here. I ask that question in noting this bill: does it cover aquaculture as well?

I commend people for it. It is a powerful bill and I hope it is used in the right way, not in the wrong way at any time in its life.

I support the bill.

[3.43 p.m.]

**Mr DEAN** (Windermere) - Mr President, I might be a little longer than some of the other speakers. My experiences with some of the issues with biosecurity probably run a lot longer and deeper than for some of the other members in this Chamber.

First of all, I recognise the efforts of all those people in Biosecurity, the team and all those others in putting this legislation together. It is a very thick bill and brings seven pieces of legislation together under one act. I compliment the members for the time they have put into doing this.

**Ms Rattray** - It's 341 pages, to be precise.

**Mr DEAN** - It is a massive bill and has taken a massive amount of work, when you start putting bills together. I know what it is like to put a seven-page bill together, not a bill of this size.

I commence by saying that under this new legislation, the Tasmanian Department of Primary Industries, Parks, Water and Environment will be charged with a new statute to protect the island state against future biosecurity threats that may adversely impact commercial agriculture across all enterprises, and to protect the unique biodiversity values that Tasmanian is renowned for. This new legislation can be a consensus blueprint, uncontroversial, fair, contemporary and fit for purpose.

For decades, Tasmania has successfully traded to the world on the basis of, first, its unique capability as an island state to safeguard its own quarantine protocols; and second, fortunate bioclimatic circumstances which in the past have limited the impact of unwanted weeds, pests and diseases and allowed for the development of niche market industries.



For over two centuries, Tasmania has maintained an enviable record for containing or eradicating a number of serious production-limiting or public health diseases that threatened our state's economy and its people's welfare.

Now, in 2019, the capability of Tasmania to maintain its standing as a reliable source of high-quality produce relies on having a robust and authentic biosecurity strategy, backed by workable legislation.

The major challenges for DPIPWE in the twenty-first century are to preserve Tasmania's biosecurity and biodiversity values on an ever-changing planet.

Managing biosecurity threats has always been acknowledged as a shared responsibility. A proactive prevention and response system relies on many factors, where trust and confidence are paramount.

Biosecurity is a central public good activity for government and, arguably, the principal business for DPIPWE into the future.

Trust between a state authority that administers the biosecurity strategy and the broader community, which is served by it, must be earned.

Tasmania's specific risk assessment systems, using the most advanced and cost-effective technologies for preventing the introduction of unwanted diseases, pests and weeds, will be necessary.

The professionalism of everyone managing biosecurity for our state is vital. The ability of ordinary Tasmanians to trust and feel committed to the new biosecurity legislation will depend on the manner in which DPIPWE is seen to be trustworthy and capable for this task. The correct test for this legislation will be to sincerely answer two questions: Is it accepted? Will it work?

I mentioned the fact that this is large legislation with seven statutes coming together, and that is good. It is difficult for any organisation to work across a number of acts when they are dealing with similar issues. A good example of this is police legislation - I refer to this, because it is best known to me. Police work across that many areas of statutes, and their authority to enter, with warrants or without warrants, and powers of arrest, et cetera, change and differ all the way through. Currently, I think the Department of Justice or the police are currently working on bringing together an act to consolidate a lot of those issues for them as well.

**Mr Valentine** - That would be a good thing.

**Mr DEAN** - It will be a great thing because how many times do I argue in this place when they bring in new legislation that they then tend to not go down a path on some of those issues, saying that some other act will cover it, when in actual fact that is not the way it goes at all. That is why I have not been successful in this place in getting a number of amendments to those new pieces of legislation on that very specific purpose. I am glad to see that is happening.

Some things in this bill will disappoint and upset a few people. I have had some fairly ordinary experiences with biosecurity issues. Tasmania has had some ordinary experiences, as have many individual business people. I have been publicly vilified because I dared challenge Biosecurity's

response to the fox program. This happened to anybody who had the temerity or the audacity to challenge or criticise a number of points through that program.

I really do not care how much tweaking of this legislation has occurred, unless this department and Biosecurity can get their procedures right, manage and administer their operations effectively and demonstrate some good and strong leadership, nothing much will change. We will see a similar mess that dogged the fox program and, to some extent, the blueberry rust outbreaks.

The fox inquiry, I will not spend too much time on this but I am able to mention it in this act -

**Ms Rattray** - I think the honourable member is making up for not having an opportunity through Estimates to talk about the fox situation. Is that right, honourable member?

**Mr DEAN** - I have a motion on the books and I will be bringing that motion forward hopefully when we come back after the winter break in relation to this very matter.

**Ms Rattray** - We are not saved.

**Mr PRESIDENT** - Hardly surprising.

**Mr DEAN** - After what I have been through, it is not surprising I want to get some sort of conclusion to it.

**Ms Rattray** - You want an apology?

**Mr DEAN** - I do. It took time off my life.

**Ms Rattray** - We will see if we can get it over the break.

**Mr DEAN** - It took time off my family's life as well, not only me.

**Ms Rattray** - Every committee takes people away from their families.

**Mr DEAN** - You are right. The fox inquiry went for something like 16 years unchallenged. The cost to the state and the Commonwealth was about \$60 million. It was accepted to be about \$50 million but it was above that in my view.

In that biosecurity matter little leadership was demonstrated at any level in the department and or within the government, including at ministerial level. It is not surprising I want to raise some issues. It is all very well to have the legislation right but without all the other necessary things in place - the right procedures, the right people and people who properly understand their responsibilities and their functions - biosecurity will continue to be dogged by bad experiences.

The fruit fly response restores some of my confidence in this area. When I read about the public consultation meetings for the independent review of the Queensland fruit fly response which, it is said, was the largest biosecurity response in Tasmania's history, I become concerned because how big was the fox inquiry, which lasted 16 years? Investigation at one stage involved about 80 full-time staff. We know what size artillery they had. A cavalcade of vehicles, baiting a large part of the state and an expenditure of nearly \$60 million.

The response to the Queensland fruit fly incursion would pale into insignificance when one looks at that inquiry. I will be interested to see whether the fruit fly incursion outdoes the fox program inquiry over a 16-year period.

The document I received in relation to the fruit fly response says -

The 2018-19 Queensland fruit fly (QFF) response was the largest biosecurity response in Tasmania's history.

That is challenging. I am not surprised that they want to forget about it.

**Mr Valentine** - It might be, they did not find one.

**Mr DEAN** - There are not too many running out there now.

**Mr Valentine** - They found some fruit flies.

**Mr DEAN** - You are right, they did.

**Ms Armitage** - We did find two, if you recall.

**Mr DEAN** - What is that?

**Ms Armitage** - Foxes.

**Mr DEAN** - We did in Victoria. They saw a couple run past.

The fox program probably would still be going had I not stood on my haunches along with two or three other people in this state.

This legislation must be followed up with good procedures, strong leadership and a display of common sense when it comes to putting into it practice. This is the reason why I and other veterinarian and business people previously burned are taking a very strong position in relation to this bill.

I have had two independent briefing sessions and one joint session with the whole Council. I thank the department staff for going out of their way to provide those briefings. I thank the department leader for the time given. They were prepared to spend whatever time I needed to be satisfied during those processes.

By going through those processes, I have resolved a number of the issues and concerns I had and others who are bringing those matters to my attention had.

Before I refer to aspects within the bill, I want to say that the bill is needed. The legislation needs contemporising, but will this bill change the culture within the department? I am not sure.

The blueberry rust inquiry has been referred to. It is pleasing to see that that inquiry has had an impact on this bill.

We have already heard about recommendation 7 in the blueberry rust report and how it assisted and gave some idea on what was needed. There were a number of other recommendations in the blueberry rust report that have been captured in the bill.

If we look at recommendation 4 -

Biosecurity Tasmania develop a communication strategy to effectively engage with stakeholders and to improve transparency in its collaboration with growers on biosecurity matters.

That has been an ongoing issue. It has been improved immensely. There are parts in this bill that will give support to that. It is good to see that is changing. It continues -

Broad consultation will be undertaken during development of the revised biosecurity legislation and include stakeholders from the blueberry industry.

That happened, and that is good to see -

The revised legislation provides a framework for the development of clear policies and procedures to manage biosecurity in a proactive way.

That has been covered in here as well. I have referred to recommendation 7. Recommendation 8 -

Biosecurity Tasmania ensures provisions within the legislation for non-compliance are applied.

That is captured here. It was always a concern during the blueberry rust inquiry that where people were not complying with orders or doing certain things, there were no teeth in much of that legislation. It is pleasing to see that there are changes there.

In recommendation 9, 'the Government develops a fair and equitable framework to compensate owners when property has been destroyed under an emergency order (with the purpose of minimising, eradicating or preventing the spread of emergency biosecurity matter)'. That was a very important part. There is a section in this new bill in relation to that matter. In the previous legislation, any problem arising that had already been in the country - in other words, had been transported from the mainland to this state - was not compensable. Nothing there really provided for people to receive any compensation or reimbursement at all, as I understand it and in my reading of it, but this bill changes that. It is very pleasing. I will comment more on that in a moment because it is a fairly important issue.

**Ms Rattray** - It is only compensation for the loss at the time. There is nothing for the future production loss.

**Mr DEAN** - I will talk more about that in a moment. I have had a lot of discussion, and during the briefings I have had, that has been a very important point of discussion. I understand that the Leader is prepared to put on record in this environment that it does not preclude consideration of some ongoing costs being considered. While it is not in the legislation, I will read from a document I have to give some confirmation to that.

**Ms Rattray** - Will that actually bind a future government though, if it is not in the legislation? I suggest we need it in legislation.

**Mr DEAN** - It will be in the *Hansard*; if there are disputes or issues involving some of these matters, you are entitled to come back to the *Hansard*, as I understand it, and that has some meaning when it comes to those matters. That is my understanding - that for the proper interpretation of it, any court would do that. For instance, they would refer to what is in *Hansard* to identify what occurred and what discussion took place at the time.

**Ms Rattray** - I suggest that any future government might say that it might have been in the *Hansard* but it may have been another colour of government. I would like to see it in the legislation.

**Mr DEAN** - With the greatest of respect, I do not think that that can happen. It is legislation that is in place at the time. Unless a new government were to rescind that legislation and start all over again, I believe they have to accept legislation as it is and they have to accept what is in *Hansard*. They cannot go back and have it corrected. In my opinion, it cannot happen.

**Ms Rattray** - If the member could get something definite on that over the break, that would be very useful in regard to that exact point.

**Mr DEAN** - I will be discussing it a little further shortly as well.

Recommendation 10 was that Biosecurity Tasmania should improve its electronic communications such as its webpage and the system alert to ensure they remain relevant. I am not quite sure what has been done in that area, but I would be surprised if some action were not being taken in that regard.

It is good the report done in relation to the blueberry rust has had some good outcomes and has impacted in putting this bill together.

**Ms Rattray** - I congratulate the Government. I do not think we have ever had a committee report that has had legislation acting upon the recommendations quite so quickly in my time. I may be wrong but others may know of another one, but that was a quick turnaround.

**Mr DEAN** - I want to talk about the statutory reimbursement, the consequential losses, eligibility for this reimbursement. This is an area that concerns me. In commenting on it, I accept there is nothing in the current statutes. I have mentioned that. It became abundantly clear during the inquiry into blueberry rust in Tasmania. In that case a property on the north-west coast was shown to have rust, although much of the analysis and other evidence to support the findings were not openly shown to or discussed with the family. Members sitting on that committee would remember that. When they were required to look at some of the documentation and so on, it was not shown to them and that created and caused some angst. This was a partnership, a small business, run by a father-son combination.

It is probably worth saying that the blueberry rust and the fox program inquiries both assisted in putting this bill together. I mentioned that. The extraterritorial powers we see in the bill came from briefings we had on some of the issues that arose during the fox issue where the department was unable to pursue some of the matters on the mainland. That was of real concern.

It is public knowledge - and I can refer to them by name now - that the Schwinds suffered a terrible blow when rust was identified in their blueberry orchard. It was not a big operation but the income from sales supported that family. It is fair to say the department learned a lot about that problem with the rust. The evidence was fairly clear during our inquiry that the department rushed in and took some actions that, with the benefit of hindsight, it may not have done. An excavator was moved in and plants were ripped up and so on - there may have been a better or more economical way of getting rid of the rust there at the time. So much was the distress caused in this instance that the father has passed away since that time, and it is said by the family that this matter impacted on him quite considerably.

The issue of compensation I am getting to was discussed and the Government in that instance made an ex gratia payment to the Schwinds, which was commendable. It was only a relatively small payment in all of the circumstances, but it covered some of their immediate costs, problems and issues.

My concern is that this bill does not cover any part of the ongoing losses, as the member has raised with me. It will cover the death or destruction of an animal or plant. Maybe the bill makes the injured party eligible to recover these costs at least, but what it does say is that an injured party is not eligible for compensation for any loss of profit, loss occasioned by breach of contract, loss of production, or any other consequential loss.

In the case of the Schwinds, the department might now accept that perhaps they could have done it in a better way.

While I understand the policy rationale for excluding entitlement to compensation for loss of future expected profits and other consequential losses, the question might be: where would it end? It could cause serious financial concerns for a government. There will be places and times where it should be considered. I accept that if it were open-ended, we could have some huge losses over a period of time and that could probably break a state. I understand and accept that. There has to be control in this area and I have no problem with that.

I was pleased to hear in a joint briefing and a private briefing that compensation for future losses is not excluded by this bill. While silent on this aspect, there is a potential opportunity for this to occur. I ask the Leader to quantify this point in her response to the second reading.

I have a document from the Government in answer to this issue where they have identified to me that they will be asking the Leader to put on the record that it does not preclude future issues, production and sales that might have been lost. I appreciate that.

Extraterritorial powers, clause 6, provides the authority for investigative work outside Tasmania and anywhere in the world so far as is possible. I will explore this point probably a little more in the Committee stage. I am pleased this bill provides this authority because it became very evident during the fox saga that every piece of physical evidence - carcasses, scats, pelts, you name it - was transported from the mainland.

I am going to raise this. In one case I was able to prove the Glen Esk Road carcass came from Briagolong in Victoria. I was able to identify the area, the place, who got it in Victoria, who captured it; and I was able to prove the identity of the two people who brought it to this state.

**Ms Rattray** - That was pretty good detective work, Mr President.

**Mr DEAN** - I did not have to do too much detective work, I can tell you now. It did not take too much to sort out. It was pretty simple.

Am I dirty on the department and all of those involved, and the police? I am, because the offender who organised all this and brought it back has never to this day been interviewed. The person has been named, the person's location is known, but they have never been interviewed.

I am very pleased the extraterritorial powers are in this act. The blueberry rust on the Schwinds' property, for instance, was, I think, traced to a nursery in Victoria. This power would have allowed the department, on its own backing, to investigate the nursery in Victoria and to pursue it in the best way possible. That is a very good part within the bill also.

I want to mention that Karen Brock - and she is happy for me to mention her name in this environment - has been a very strong person in following this legislation and closely looking at it. She operates a blueberry farm, a very good farm, and she does very well from it. Karen Brock was a Nuffield Scholar in 2014 or 2015, so we are talking of someone with good credentials who is very much involved in farming and has a reason to have a strong interest in this bill.

She raises a number of concerns which I have raised with the department. I have received quite a good response in writing from the department to the matters Karen and I have raised. I thank the department for that. There was a fair amount of work to put that together.

I want to make a short comment on the permitted matter area within this bill. This is a matter raised by Karen Brock and others as well with me. I will quote this comment on the department's answer -

Under the current Bill the Permitted List system entry of 'any matter or class of matter' needs to recognise that Tasmania's **Appropriate Level of Protection** [ALOP] may differ from that imposed in other Australian sub-jurisdictions (where such a 'matter' is known to occur i.e. to have entered, established and spread) or nationally (where under World Trade Organisation's *Sanitary-Phytosanitary* [SPS] protocols entry of certain 'matter' into Australia is permitted). In the recent past Tasmania has imposed its own ALOP restricting entry of certain imported products which are permitted entry into Australia. In these circumstances the state undertook its own risk assessment and deemed the necessity to ban those internationally sourced products' entry into Tasmania. The transfers of potentially high biosecurity risk products (based on a **risk assessment**) sourced from Australian mainland represents a continual concern for Tasmanian biosecurity. All interstate add-ons of '*any matter or class of matter*' to the Permitted List under this legislation does require a rigorous and transparent scientific risk assessment. Plant cultivars or types which can act as vectors for significant unwanted disease-causing organisms require particular close consideration to manage any incursion risk.

That is the comment in relation to this area.

I want to mention only one other matter. A concern that arose during the blueberry rust inquiry was that the approach at Schwinds was very strong, yet when a rust outbreak later occurred at another property, Costa, a very large producer in this area, the department responded in a totally

different way. What determined that came out in the blueberry rust inquiry - the size of the business impacted in the second instance.

That is one area that caused a great lot of concern and frustration throughout that industry. I hope this bill can bring much of that together and that we can see consistency being applied. I know that not every outbreak can be treated exactly the same way. I accept and I understand that, because of certain other things that might apply. We need to see consistency demonstrated where it can be and if it is not, there ought to be a good explanation given as to why there has been a significant change in the approach and why one person suffers a massive destruction of property while another does not. To a small producer, the destruction that occurred at the Schwinds' property - I am not quite sure of the number of plants - while to many would be relatively small, was, to them, a big issue because they were a small producer.

Having said that, I will certainly support the bill. It is a good bill that has been well put together. I think all members will support it.

[4.20 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, I am mindful that the Leader indicated she would like to adjourn when I finish.

Before I start, I want to correct something I said by interjection. I was trying to get some banter going in the Chamber and I complimented the Government on responding to recommendations from a report in such a timely manner. I was quickly told that it was not the only committee that had responded very quickly, so I will let you know of a couple of others.

During the acute health services inquiry, a restructure for local decision-making was provided before the inquiry had even concluded. Congratulations.

From my own circumstances comes the Tasmanian irrigation inquiry. Before the inquiry was halfway through, communication between management and the local irrigator groups had lifted by about 400 per cent, and we were able to put that in the report.

This is not the only example of the Government being proactive. They have done it before and let us hope they continue to do it. I thought I had better set the record straight.

I also found the recommendations from the blueberry rust inquiry were relevant to what we have been discussing through the Biosecurity Bill briefings. They have been excellent. We have been given a tremendous amount of information, and it has almost all been positive. We heard a few things this morning in another area that questioned a particular department's role, but then we received information that gave me comfort that things were not exactly as first related. That was to do with the salmon industry. We will get an opportunity to talk about that further. The industry is complimentary and looking forward to working within the parameters of the legislation. I appreciate that.

We were also told through that briefing process that there had been really strong stakeholder engagement. That is how you put together good legislation. For any department with legislation pending, if you talk to your stakeholders and you take on board their feedback, they do not need to come and see members of the Legislative Council because they are usually fairly satisfied. We can be told in an 18-page second reading speech that there is strong support from industry stakeholders.



That is a tick from me regarding that type of consultation and feedback from industry because that is what will be affected by this legislation.

Mr President, 341 pages of legislation is a lot to get through. I am pleased the honourable Leader is not looking for the Council to deal with that in Committee today.

I wrote in my first notes from the briefing session that there is work to be done to the detail on how the legislation will work. That always makes me nervous. Mr President, you will know from your time as a member of the Subordinate Legislation Committee, the devil is in the regulation. You enable it with the legislation, but when you drill down into how the mechanics of something are going to work, that is when the rubber hits the road.

I will be interested in how those regulations are going to be put together, how they will unfold, and what further engagement and consultation there is with industry on those regulations, because it is important. The regulations are in place and then this House or the other place has to go through a process to disallow, if it does not sit well and negatively impacts on the community or a community sector. We have not been able to change that process, but I think the member for Murchison, if she were here, would have interjected and said, 'I have not let it go yet'. There are a few of us around this place that still believe we need to change the process. There is nothing wrong with the steps, they just need to be put in a different order so that they are not enacted before they have gone through that review process, through the Subordinate Legislation Committee.

**Mr PRESIDENT** - It is a very good committee and I think every member should go through the Subordinate Legislation Committee.

**Ms RATTRAY** - We just recently welcomed a new member. We are looking forward to that opportunity.

I wrote that a toolbox is a box of things to manage biosecurity. That is where we will need to know what is in that toolbox and how to use those implements. That is an important part of the process.

I support the establishment of the advisory committee. That seems a very reasonable approach because then you have industry represented. They can have direct input into a committee process, or a Council process. It is a hybrid model between skills-based people and representatives. I am sure there will be a detailed look at the number of people and the number of skills that will be looked at for that board. It will be interesting to see how that unfolds through the Committee process. A committee of 11 might be a stretch. Brand Tasmania has a committee of 11. I have not delved right into the mechanics of that as yet.

I took also the opportunity to look at the TFGA response. Other members, including the Leader, talked about their response to biosecurity, because they are the first responders when a biosecurity incident occurs. They have the networks on the ground. The TFGA in this state does a fantastic job representing the various areas of agriculture and in this case they are very proactive. On every committee that I can recall in recent times, and for some reason I seem to spend a lot of time on committees, we always seem to give them a call and they provide really positive input into anything, even blueberry rust.

I did not want the opportunity for other members to be lost; that was why I am here.

I found an extract from the TFGA. As I said they are very supportive. I quote -

While communication has been much better this time around, there are still questions that need to be answered about how this occurred, when this occurred and how the incident control has unfolded. It is imperative that the broader community understands the risk and impact ...

This is in regard to the fruit fly affecting our vital fruit and vegetable industry.

They are always on the front foot when there is any incident unfolding. They were very helpful through the fruit fly incident and I believe that is all sorted. As I have been driving around, I have not seen any signs and bins on the side of the highway. I am not sure whether there was anything in them, but I am sure people did the right thing if need be.

The TFGA was also very supportive of the reimbursement to growers and had some input into the authorised officers' part of the bill and the fact this would make the processes very clear in their mind regarding the detailed instruction.

Wine Tasmania again was supportive. Fruit Growers Tasmania supported the collaborative approach and the intent of engagement. The member for Hobart talked about the beekeepers and their industry and the member for Windermere has certainly given the blueberry industry a good leg up.

I printed out the recommendations from the blueberry report, but the member for Windermere has certainly -

**Mr Dean** - There is more detail to go into. I did not go into the real nitty-gritty.

**Ms RATTRAY** - I do not know there is a lot more detail. I think you said everything that needed to be said and the 18 pages of second reading speech made very clear what the intent is. That broader conversation about the mechanics of compensation and the question I posed to you through interjection around loss of income into the future might be addressed, is something we will discuss through the Committee stage.

Number 8 of the recommendation -

Biosecurity Tasmania ensures provisions within the legislation for non-compliance are applied.

That is important. If somebody does the wrong thing, there needs to be a proper mechanism to make sure they, or the company or organisation, are held to account. It is also a deterrent for others to be very mindful; I do not want to go through the New Zealand experience again because it is still painful.

**Mr Dean** - It is a strong message that we in this state are serious about maintaining our pest-free status. That is what it is about. We are serious about it.

**Ms RATTRAY** - Yes. Other countries do it. They make a definite point of it. The level of fines in New Zealand compared to Tasmania is double. If you received a fine, you would probably only get a warning in Tasmania if you inadvertently bring something in. There are no second chances over there. They are on to you. It does not matter what hour of the night or morning it is. This was 5 a.m. in the morning and the Deputy Clerk can testify we were not awake.

**Mr Dean** - Had you not been able to pay, would you have been jailed?

**Ms RATTRAY** - No, they gave me 14 days and I said 'You won't see me again for a while.' Then blow me down, a couple of weeks ago the rail trail inquiry had to travel to New Zealand. Do you know who had their bags checked four times? Me!

**Mr Valentine** - You did not take any bananas?

**Ms RATTRAY** - No, but interestingly when we were down at the rail siding in Dunedin and I purchased some dried apples, there was no way they were coming anywhere with me when I got near an aeroplane. No way. I handed them out freely on the bus wherever we went so there was not a skerrick of them left.

I learned my lesson. If it is good enough for New Zealand, it is good enough for Tasmania to make sure we protect what we have - that we are clean, green and pest free, all those things that are so important to our brand.

We talked about Brand Tasmania only a few weeks ago and how important our brand is. Here we have significant legislation, eight pieces put into one, where we have incorporated these acts that have served us well but are no longer fit for purpose; we need to do everything we can to support making sure our areas are secure.

One question that has been raised with me, and I am a little anxious about raising it, is around airports. We have all the proper protections in place at the big ones, but what happens at the small ones where you do not have people waiting to check bags and people when they get off flights?

We have quite a few small airports. We have helicopters flying into Tasmania with groups on them now. Small planes come in for various reasons. That is something for the department to put its head around before we deal with that in the Committee stage of this legislation.

I support the intent and the principle of this legislation. I look forward to its Committee stage when we will, clause by clause, have an opportunity to delve down into the detail of how the mechanics of something will work and if those draft regulations are somewhere. They may have already been started on. I can see a couple of heads nodding pretty positively. They would also be very useful for the whole of the Council to look at when we talk about this in the Committee stage.

With my support for this bill at this time, I will move that the debate stand adjourned.

**Debate adjourned.**

## **ADJOURNMENT**

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

That at its rising the Council adjourn until 9.30 a.m. Friday 2 August 2019.

**Motion agreed to.**

**The Council adjourned at 4.39 p.m.**