

## DRAFT SECOND READING SPEECH

HON MICHAEL FERGUSON MP

### *Emergency Management Amendment Bill 2018*

*\*check Hansard for delivery\**

Madam Speaker, I move that the Bill now be read a second time.

The purpose of the Bill is to make a number of amendments to the *Emergency Management Act 2006*, which provides for the protection of life, property and the environment in the event of an emergency, establishes emergency management arrangements in Tasmania, and provides for certain rescue and retrieval operations.

The *Emergency Management Act 2006* has been under review since 2012. Progress was halted at times due to awaiting the outcomes from a number of independent or government-led reviews of emergency events, such as the 2013 bushfires and the 2016 floods. The outcomes of these reviews have in turn been utilised to inform the review into the Act.

Of particular significance was the independent review of emergency management arrangements undertaken by the Department of Justice from late 2014 to 2015. That review reported 52 recommendations, eight of which had implications for the *Emergency Management Act*. Also, the review of recovery arrangements that followed the 2016 floods.

Madam Speaker, drafting commenced in March 2017, following the recovery review, and I am pleased to report that the amendments being introduced today will achieve all eight recommendations of the Department of Justice review that relate to this Act.

All State and local government agencies are key stakeholders in this legislation and, consequently, they were also heavily consulted throughout the review process and also during the drafting of the Bill.

Madam Speaker, I will now provide details on the amendments proposed under the *Emergency Management Amendment Bill 2018*.

The amendments will create a standing Ministerial Emergency Management Committee, chaired by the Premier. Provisions will include membership, functions and powers of this committee.

Madam Speaker, the process for the expedient authorisation of emergency powers will be simplified by providing the option to authorise all of the emergency powers to a specified authorised officer if the type of powers required are initially unclear, but urgent attention using emergency powers may be required at short notice.

The authorisation of emergency powers will be more forward-looking and will be available in the event that an emergency “is likely” to occur. This will be achieved by reinforcing one of the pre-conditions that there need only be a significant threat of an emergency event, which aligns with the existing definition of “emergency”.

With regard to declarations of a state of emergency, the amendments will also reinforce that there need only be a significant threat of an emergency event for a declaration of a state of emergency by the Premier. Additionally, a new declaration of a state of alert by the State Emergency Management Controller will provide more of a graduated scale of emergency and an ability to be more forward looking and pre-emptive.

Also with regard to declarations of a state of emergency, section 42 (1)(b) will be removed from the Act to further simplify the pre-conditions for declaring a state of emergency by the Premier. This means that the Premier need not concern him or herself whether emergency powers alone will be insufficient to manage the emergency. All other pre-conditions remain, such as the existence of an emergency or threat of an emergency, and that special emergency powers may be required.

Madam Speaker, the amendments will better reflect the reality of municipal roles and capabilities, by including in the functions of Municipal Emergency Management Coordinators and Municipal Recovery Coordinators, the establishment and coordination of evacuation centres and recovery centres. New municipal-level recovery provisions, such as functions and powers of a Municipal Recovery Coordinator and some expanded roles for Municipal Emergency Management Coordinators have also been included to provide greater clarity on municipal-level roles. Provisions for Municipal Emergency Management Plans will remain, which provides all other municipal emergency management roles and responsibilities.

Madam Speaker, the amendments provide a new Division covering the administration of recovery. They make new provisions for a State Recovery Advisor, a Recovery Taskforce, recovery committees, State Recovery Coordinator, Municipal Recovery Coordinator and provisions for the transition of responsibility from a Regional or State Emergency Management Controller to the relevant recovery authority. The Division includes applicable functions and powers and is aligned with the State Recovery Plan.

In support of speedy and effective recovery, the amendments will include a new emergency power to remove debris from, or demolish, premises affected by an emergency. The power, once authorised by the State Emergency Management Controller, may be exercised if, in the opinion of a specified authorised officer, the removal or demolition is necessary to avert an emergency, or to minimise the possibility of aggravating an emergency. The existing reasonable notice provisions for exercising this power shall apply. This means that up to 3 days written notice must be provided to any occupier, unless the occupier consents, the premises are open to the public, or circumstances are such that immediate action is necessary to protect people from distress, injury or death.

Madam Speaker, the administration arrangements will be enhanced and updated throughout. The amendments provide Regional Emergency Management Committees and Municipal Emergency Management Committees the same power as the State Emergency Management Committee to establish subcommittees for the purpose of assisting them in the performance and exercise of their functions and powers. This provides greater consistency and flexibility across the three levels and reflects current practice.

The amendments remove the default appointments of State Emergency Service personnel to the positions of Executive Officer of the Regional Emergency Management Committees and the State Emergency Management Committee. Instead, the State Emergency Management Controller may appoint any suitable member of those committees to the role of Executive Officer for a specific term. This provides greater flexibility and addresses the concerns that current SES Executive Officers can be distracted from operational responsibilities if also required to perform Executive Officer functions.

Madam Speaker, the administrative provisions are further enhanced by removing the default appointments of the Municipal Emergency Management Coordinators to the position of Executive officer of the Municipal Emergency Management Committee. Instead, the Municipal Chairperson

will have the flexibility to appoint any suitable member of the committee to the role of Executive Officer for a specific term.

The amendments will provide consistency across municipal and regional levels regarding the requirement to report to higher authority on matters that relate to both the functions and powers of that higher authority. Some authorities are currently only required to report on matters relating to “functions” and others on “functions and powers”. The consistent inclusion of “powers” will allow recommendations to be made on the need for emergency powers, for example.

The amendments will also clarify the appointment arrangements for Regional Emergency Management Controllers on occasions where the appointments are not made by the Minister. Instead of the appointments being “determined” by the Commissioner of Police “in consultation with” the State Emergency Management Controller, the amendments will make it clear that, in such circumstances, the State Emergency Management Controller can approve these appointments, once a suitable candidate is determined by the Commissioner of Police.

Madam Speaker, the amendments will provide added flexibility for the Deputy State Controller, Deputy Regional Controllers and Deputy Municipal Coordinators to sub delegate any of the functions and powers that have been allocated to them in their capacities as Deputy. The power to delegate their role will allow for more effective continuity of emergency management relief when Deputy appointees are on planned absences from work.

The amendments update nomenclature for certain positions within the Department of Police, Fire and Emergency Management. Under the current Act, the default appointment to the Deputy State Emergency Management Controller position goes to the “*Deputy for the Head of Agency*”. However, following a departmental restructure in 2016, the “*Deputy for the Head of Agency*” position is now more responsible for business and executive services and would have to delegate the role of Deputy State Emergency Management Controller to the Deputy Commissioner of Police, who has always performed this role. Accordingly, the amendment will require the Deputy Commissioner of Police to be the Deputy State Emergency Management Controller if no ministerial appointments are made.

The amendments will correct a previously unnoticed drafting error within the Act by removing a ‘double negative’ situation and omitting the word, “not”, from provisions describing the time limitations for declarations of a state of emergency. The current provisions state that “...*a state of*

*emergency may not be made so as to have effect...for a period not exceeding 2 weeks*". The amendments will omit the second "not".

Madam Speaker the definition of "emergency management" will be modernised to include measures that provide community resilience against emergencies. This is required primarily due to Tasmania's commitment to Disaster Resilience and will be achieved by adding the activities, "resist" and "adapt to...an emergency" within the current definition of 'emergency management'.

Any reference to the Tasmanian Emergency Management Plan will change to Tasmanian Emergency Management Arrangements (or TEMA) to better reflect its actual content and purpose.

In support of emergency management volunteers, the amendments ensure volunteer emergency management workers authorised to provide emergency services outside Tasmania receive the same workers compensation protections as 'employees' under the *Workers Rehabilitation and Compensation Act 1988*. The Secretary of the department responsible for the administration of the *Emergency Management Act 2006* must provide consent.

Madam Speaker, this Bill will take effect upon Royal Assent and I commend it to the House.