

**POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES  
(AMENDMENT) BILL 2012**

**SECOND READING SPEECH**

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

Mr Speaker, the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* of the Commonwealth gives effect in Australian waters to the International Convention for the Prevention of Pollution from Ships, commonly known as MARPOL.

The *Pollution of Waters by Oil and Noxious Substances Act 1987* of Tasmania – which I shall refer to as PWONSA - is mirror legislation to the Commonwealth Act, giving effect to the Convention in Tasmanian State waters.

Annex IV of the Convention, and Part IIIB of the Commonwealth Act address the issue of discharge of sewage from ships.

Division 2AB of PWONSA deals with sewage discharge from ships within Tasmanian waters.

The offence provision of that Division was apparently intended to only apply to larger cargo and passenger ships on international voyages, as does Annex IV of the Convention.

This would leave the State's general pollution control laws to deal with significant sewage discharge events from local ships and boats.

However, recent sewage contamination events, and increasing complaints of sewage discharges from local vessels in sensitive areas, have led to a critical examination of the PWONSA provisions.

It is now apparent that the PWONSA offence provision, which prohibits the discharge of sewage from ships in Tasmanian State waters, applies to all vessels, including local cargo vessels, commercial passenger and fishing vessels, and to recreational vessels.

There is currently no mechanism in the Act to allow any exemption from that offence provision, other than in circumstances where it is necessary to secure the safety of a vessel at sea.

The Government considers that the risks associated with discharges by local vessels may not in all circumstances warrant this total prohibition.

Mr Speaker, it is relevant to note that over recent years, all other Australian States have put in place sewage discharge restrictions applying to local vessels, including recreational vessels.

While the restrictions do vary considerably across jurisdictions, they all relate to the risk to public health and the environment from the discharge of untreated sewage from vessels into popular recreational waters, near shellfish farms, and in environmentally sensitive waters.

It is therefore appropriate that consideration should be given to a risk-based approach in Tasmania.

However, a risk-based approach is not possible without amendment to the Act.

The Bill therefore seeks to amend Division 2AB to allow for the making of a sewage management directive, and to provide that compliance with such a directive will exempt local vessels from the existing offence provision.

It is recognised that in developing a directive, the views of the commercial and recreational boating community should be considered, and to that end the EPA Director has sought their representation on an

expert working group to provide advice on the issues and assist the development of an informed Directive in the event that the Act is amended as proposed.

It is important to appreciate Mr Speaker that failure to amend the Act will see the continuation of the current complete prohibition on the discharge of sewage.

Mr Speaker, the Bill also includes an amendment to the definition of “State waters”.

The Commonwealth *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*, for which the State Act is mirror legislation, was amended in late 2012 to clarify the meaning of “the sea near a State”.

That amendment confirms that a State’s responsibility in giving effect to the nation’s obligations under the MARPOL Convention, extend only to the 3 nautical mile limit from the baselines by which the Territorial Sea of Australia is measured for the purposes of international law.

The Bill therefore includes an amendment to the State waters definition in PWONSA to bring it into line with the recently amended Commonwealth Act.

The amendment to the definition does not compromise any constitutional power of Tasmania, or restrict any State rights. It simply clarifies the extent of the waters in which the State is responsible for enforcing the MARPOL Convention and reflects current practice and understanding.

Mr Speaker, I commend the Bill to the House.