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REPORT OF DEBATES

Wednesday 23 November 2022

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Wednesday 23 November 2022

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

QUESTIONS ON NOTICE

Macquarie Point Feasibility Study and Business Case

[11.07 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, it gives me great pleasure to let you know I have an answer here to question No. 4 on the Notice Paper for the member for Hobart. I seek leave for it be tabled and incorporated into *Hansard.*

4. MACQUARIE POINT FEASIBILITY STUDY AND BUSINESS CASE

Mr VALENTINE asked the Leader of the Government in the Legislative Council, Mrs Hiscutt:

In relation to the most recent announcement of an AFL football stadium on Macquarie Point, in the interests of transparency and for the record, can the Government please provide the following details:

(1) (a) Prior to the Government setting a policy to build a stadium on the most recently selected site, was the Macquarie Point Development Corporation (MPDC) consulted; and

(b) if so, what was the style of that consultation and will the Government table the corporation's detailed response(s) to that consultation?

(2) (a) what benefit-cost analysis (BCA) was undertaken for the recently proposed project prior to the project's announcement; and

(b) will the Government table that analysis?

(3) (a) did the Government assess the impact the project would have on each of the current projects, either underway or in planning, that are related to the Macquarie Point 2017-30 master plan; and

(b) if so, will the Government table that assessment, including any costs associated with the halting or delay of each project?

(4) (a) when was the most recent ministerial statement of expectations provided to the MPDC;

(b) did that statement envisage an AFL football stadium; and

(c) if not already available on the MPDC's website, will the Government table the statement?

(5) (a) did the Government consult with MONA stakeholders prior to setting a policy to build a stadium on the most recently selected site; and

(b) if so, will the Government table the MONA stakeholder's response(s)?

(6) (a) given the Aboriginal community's significant interest in the future of Macquarie Point and their present operations on the site, has the Government in any way consulted with that community in relation to the impact of a stadium on their expectations for future development at the site;

(b) if so, when did that occur in relation to the policy change for the site; and

(c) will the Government table the Aboriginal community's response(s) to that consultation?

(7) (a) did the Government consult with the Australian Antarctic Division in relation to the impact of the stadium on their future developments at Macquarie Point; and

(b) if so, will the Government table the response(s) from the Australian Antarctic Division?

(8) (a) did the Government consult with the Hobart City Council in relation to the project's impact on their city's strategic plans; and

(b) if so, what were the results of that consultation and will the Government table those results?

Ms Forrest - Why can you not read it?

Mrs HISCUTT - It is about four pages. It would take about half an hour.

Ms Armitage - Let us read it, we have waited a long time for it.

Mrs HISCUTT - Is the member happy to have it tabled?

Mr Valentine - I would be happy to have it read. It is in the public interest.

[11.08 a.m.]

Mrs HISCUTT - The Tasmanian Government is currently undertaking work on a feasibility study and business case for a new multipurpose arts, entertainment and sporting precinct at Macquarie Point in Hobart. The development of the Macquarie Point precinct as a community-focused multipurpose arts, entertainment and sports venue would provide significant social and economic benefits not just for Hobart but for the entire state.

The Tasmanian Government strongly believes that a precinct of this kind will put Tasmania on the national and international stage for both sporting and entertainment events on a scale that has not been possible in the past. Similar precincts and stadiums in other states and

across the world have transformed and reinvigorated cities, enhanced economic activity and created a vibrant precinct for locals and visitors.

The Tasmanian Government has been transparent about potential sites being considered, including Macquarie Point. This information has been publicly available on the Department of State Growth website since February 2022. The work undertaken to date has highlighted that Macquarie Point offers the most cost-effective and efficient option to base the Tasmanian arts, entertainment and sports precinct and is now the Government's preferred location.

The economic impacts of such a precinct in Hobart, estimated by PricewaterhouseCoopers, indicate that a new facility hosting a conservative 44 sporting and cultural events each year could generate $300 million in additional economic activity and 4200 jobs during construction. Once operational, it could generate $85 million in additional economic activity and 950 jobs in each year of operation as well as $162 million per year in additional consumption based on attracting 420 000 attendees with 350 000 bed nights. This is in addition to a Tasmanian-own AFL and AFLW team which is estimated to generate $120 million per year in economic activity.

Further, conference facilities not currently available in Tasmania would increase our capacity to host events of up 25 000 people. EMRS research shows increasing our conference capacity to 25 000 would have a direct economic impact of $1.3 billion to Tasmania which we are currently losing to cities like Cairns, Geelong and the Gold Coast. These facilities provide synergies for the proposed Antarctic and science precinct at Macquarie Point and will help support Tasmania as the Antarctic gateway.

The Government is now proceeding with the next stage of the feasibility work which will focus on the stadium at Macquarie Point and will include the development of a business case to secure full funding, as well as a cost-benefit analysis. As a large complex project, all relevant parts of government continue to work together, including the Macquarie Point Development Corporation which is involved in this process. Two of the key elements of the vision of the Macquarie Point site continue to be the proposed Antarctic and science precinct and The Park. The Government remains strongly committed to both these developments which can be delivered alongside a stadium, and consultation is continuing with stakeholders associated with these developments.

The Tasmanian Government acknowledges and respects the Tasmanian Aboriginal community and their important role in the development of Macquarie Point. The Macquarie Point Development Corporation is working closely with the Tasmanian Aboriginal people and will continue to engage with them on The Park.

It is anticipated that there will be development and commercial opportunities around and as part of the precinct. The types of development and locations will become clearer as work progresses. The Government will continue to engage with developers and stakeholders to explore these opportunities.

The Macquarie Point Development Corporation is guided by its ministerial statement of expectations which is published on its website. It will continue to prioritise remediating the site to allow for permanent development and work with leaseholders and all stakeholders on site in relation to any impacts on them.

Representatives of the Government, including the Premier, Minister for State Development, Construction and Housing, agency and Macquarie Point Development Corporation officials have been engaging with key stakeholders and regular consultation will continue as the project progresses.

Ms Forrest - That did not answer the question.

Mr VALENTINE - Mr President, the answer provided -

Ms Forrest - That is why we are expected to read it, you see.

Ms Webb - Yes, it did not answer it.

Mr VALENTINE - The answer provided does not go directly to the questions that I have asked. They are simple questions and I want the Government to respond to them. I am interested to know all the background in relation to Macquarie Point. I appreciate the explanation that has been provided but it does not answer the questions. I would appreciate those questions being answered.

Ms Forrest - Resubmit them.

STATEMENT BY THE PRESIDENT

Welcome to New Staff - Kate Rainbird

Mr PRESIDENT - I welcome to the Chamber, Kate Rainbird, who has commenced work with the member for Pembroke as the electorate officer. Kate's background is in graphic design and marketing, and she certainly has an interesting product to do that with now. She has a bachelor degree in design from the University of Newcastle. She has worked across private and government sectors in Western Australia and London, and has also run her own successful graphic design business here in Tasmania for the past 15 years. Kate holds a Graduate Certificate in International Relations, and is currently studying a Master of Politics and Policy. I am sure all members of the Legislative Council will warmly welcome Kate to the Legislative Council team.

Members - Hear, hear.

WORKERS REHABILITATION AND COMPENSATION AMENDMENT BILL 2022 (No. 48)

Second Reading

Continued from 2 November 2022 (page 66).

[11.14 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I had finished the second reading speech and I commend the bill to the House.

Ms FORREST (Murchison) - Mr President, the Workers Rehabilitation and Compensation Act is complex legislation. This is an amending bill. It is important legislation to ensure that workers who were injured in their workplace receive fair compensation and support in their recovery and, hopefully, return to work. We must not lose sight of the fact that is what this principal act is about.

This bill seeks to address an anomaly in terms of the presumptive right of firefighters to be accepted for workers compensation when they are exposed to carcinogens in the workplace. Sadly, that is the case as firefighters are exposed to a whole range of carcinogens because whenever they attend a fire, except when it is a bushfire with just bush and nothing else around, they really do not know what is burning.

Houses and other buildings can contain all sorts of materials that release carcinogenic fumes and smoke. They will wear protective breathing equipment in those circumstances which unfortunately - I do not know whether the member for Rumney is going to address her mind to this - have not been all that safe lately either. There have been mould and other things in their breathing apparatus and we know how damaging mould can be in your lungs.

Mr Valentine - Along with fire retardants.

Ms FORREST - Yes. Firefighters do expose themselves to extraordinary risk. Not least the risk of inhaling a carcinogenic substance, but the fact that they go into fires in the first place.

It is an extremely volatile situation. You do not know what is behind the wall if you are going to a building fire. I have good friends who have been severely impacted by attending fires, particularly in buildings that have collapsed while they have been on site, and ended up with post-traumatic stress disorder as a result. Of course, those sorts of injuries are subject to a workers compensation claim.

It is enormously risky. We run a mile from such an event but firefighters, including our volunteer firefighters as well as our career and occupational firefighters, actually go toward the fire, toward the risk, toward the potential harm.

The principal change on this presumptive legislation is to give that right to have these illnesses recognised. The presumption the cancer would have been likely to have been caused by exposure in the workplace is a fair and reasonable step. We debated the overall intention to predominately do this some time ago.

This is to correct these two provisions, which are separate. The first one, the amendment to Section 27, is to ensure the presumption as to cause of certain diseases, namely cancers, in relation to firefighters covers the field of people who put themselves at risk in their workplace in undertaking firefighting operations.

I thought it was helpful to go to the principal act to look at what firefighting operations are, because it refers to them in this bill. You have to go to section 5(3) of the principal act.

> *fire-fighting operations* includes -
>
> (a) any act that is necessary or expedient for or directed towards -

(i) extinguishing a fire;

(ii) preventing the spread of a fire;

(iii) saving life or preventing injury to persons by a fire;

(iv) preventing property from being destroyed or damaged by fire;

(v) providing sustenance for persons performing any act referred to in subparagraphs (i) , (ii) , (iii) , and (iv) ; or

Mr President, that to me is anyone who is actually assisting the firefighters, because we know how strenuous it is and without proper nutrition and hydration, firefighters can succumb to the effects of the heat. Then there are people who would be there supporting them.

(vi) taking action to prevent the outbreak of fire; and

(b) the undergoing of training in relation to all or any acts specified in subparagraphs (i) , (ii) , (iii) , (iv) , or (vi) ;

fire prevention operations means any operations carried on, or any work or other acts done, for the purpose of preventing the outbreak of fire or abating the danger of fire, and includes the undergoing of training in relation to any of those operations or acts or that work.

It is quite broad in terms of the actions firefighters may be required to undertake, whether they be career, volunteer or occupational.

I also went to schedule 5 to look at the list of cancers because these are the sorts of risks that people expose themselves to in the line of duty otherwise they would not be listed in the act. When you think about the extensive list - there are 12 of them - and the risk of exposing yourself to any of these, none of us want any of these.

I will run through them: primary site brain cancer, primary site bladder cancer, primary site kidney cancer, primary non-Hodgkin's lymphoma, primary leukaemia, primary site breast cancer, primary site testicular cancer, multiple myeloma, primary site prostate cancer, primary site ureter cancer, primary site colorectal cancer, and primary site oesophageal cancer. That pretty much covers everything except for melanoma, almost. There are not a lot of brain cancers. The primary site of brain cancer - I assume it covers all brain cancers.

That is an extensive list so one would assume from that list that firefighters attending a fire are at risk of being exposed to carcinogens that can cause any of those cancers. As we know, the treatment of these cancers is not a pleasant thing for anyone to experience either, whether it is radiation, chemotherapy or a combination of both, and often it is a combination of both and may or may not include surgery. The impact on a person is significant and the impact on their family is significant. The costs of care are significant so it is right that we ensure all the people who undertake firefighting activities as I outlined from section 5(3) of the principal act, are covered. That is what the section 27 amendment seeks to achieve.

I have a couple of questions on the section 27 amendment that I raised in the briefing. Because it is fairly complex legislation, important but complex, as most of these things are, I consulted with a lawyer who is an expert in workers rehabilitation and compensation work. This forms a lot of his work and there were a couple of the things he raised with me in terms of the clarity as to how this is intended to work, because he is one of the lawyers who represents clients when they are seeking to make a claim against the Workers Rehabilitation and Compensation Act. Over the years he has been active in getting and supporting and promoting a lot of changes we have seen over the years. If you go back to when the member for McIntyre and I were first here, there were some unfair provisions in the workers compensation and rehabilitation system where people were not well supported.

Ms Rattray - Certainly in regard to the volunteers. They were not even included.

Ms FORREST - Yes, the volunteers were not covered at all. I commend the Government. It was the Labor government that first proposed addressing this. Both governments have worked to ensure that our firefighters are adequately protected - as much as you can - and provided with support in terms of workers compensation and rehabilitation when they are exposed to a genuine and serious risk of harm in the workplace.

We are looking at the revised definition of occupational firefighter. It defines the person who is a State Service employee. On page 5, subparagraph (ii):

> (ii) an employee of a Government Business Enterprise, within the meaning of the Government Business Enterprises Act 1995, a significant function of which is to manage forests or parks -

I know this has not changed from the previous act but when someone is seeking to be represented here it comes down to what a 'significant function' is, as I understand it, and I ask the Leader to clarify this in her response. What is significant? I would have thought if you are working for Sustainable Timber Tasmania, which is the mostly likely GBE to be involved in firefighting, what would be the significant function? I understand it is the organisation itself. Sustainable Timber Tasmania does manage forests. It includes firefighting but not all of their workers are engaged in firefighting, but the significant function is to manage forests and parks. I want that clarified. It is about the GBE that has to have a significant function. I assume, if that is the case, that would only be Sustainable Timber Tasmania (STT). Then it goes on to say, under that definition of an employee of either the State Service or a GBE:

> … who is employed, in whole or in part, in the Agency or Government Business Enterprise, to perform fire-fighting operations …

I have already described that, from section 5(3) of the principal act or in fire prevention operations, which I read earlier.

So, someone could have a very small part of their role with firefighting within Sustainable Timber Tasmania; or within even Tasmania Fire Service, there are non-firefighting positions.

Ms Rattray - NRE as well.

Ms FORREST - NRE, yes, that is the State Service. That is right. So, it is people working for Tasmania Fire Service, as well as State Service employees in NRE - previously

called Parks? It keeps changing its name like many of our departments. However, Mr President, it says they are 'employed, in whole or in part'; so, is there an expectation that this is a significant part of their role or can it be any part? You could have a person who normally does not participate in firefighting activities but, because of the nature of the season or whatever - for example, in STT - they are called out.

I want to be pretty convinced that person will not be disadvantaged. It is not that it has to be a major part of their role. The fact they have participated in firefighting activities at a time, and the exposure is likely to have occurred then, can they also have this presumption? Otherwise, you could find people being excluded when everyone else around them is covered. It needs to be clear.

Turning to amendments to section 87 of the principal act, this section sets out age restrictions for weekly compensation payments for workers injured at work based on the person's pension age and when the injury occurred. I understand that it relates to when the injury occurred, which can obviously be contested, particularly if people attend a number of fires. In this section, the pension age has the meaning set out in the Social Security Act 1991 of the Commonwealth.

This bill amends section 87 to reduce the disadvantage experienced by older workers, by extending the period of time before the age-related cessation provisions apply to those injured close to reaching pension age. This is for people who are getting close to pension age and are injured close to that and so, notionally, their payment may not continue. This is being addressed to at least give them another 12 months in that. The implementation of the amendments will provide that, where a worker was injured at work two years - it used to be twelve months - or more before the worker reaches the pension age, entitlements to weekly payments will cease after the worker attains the pension age. If the injury occurs when the worker is aged less than two years - which was changed from 12 months - before the date on which the person attains the pension age, then entitlements to weekly payments will cease on the date two years - increased from the current one year - after the injury occurs.

Mr President, as the second reading speech and other information we have been provided with state, the existing provisions which allow an injured worker to apply to the Tasmanian Civil and Administrative Tribunal (TASCAT) for a determination to extend payments beyond the applicable cessation date will be retained. It is important that is maintained so people can make a claim. It is particularly important for those who may have reached, or are very close to, retirement age, but had every intention of continuing to work. As we know, a lot of people do work beyond retirement age. Quite frankly, we probably need them to, with the current workforce shortages.

I have a couple of questions about this section 87 amendment. Firstly, and I said it in the briefing, I thought we could stop using gendered language in legislation. Clause (5), subclauses (f) and (i) refer to 'him' or 'her' and 'he or she'. Surely, we can use 'the worker', or even the word 'they', which is inclusive. We have done it in some of the legislation; we need to do it with all legislation, whether or not it is an amending bill. We can at least change those bits. If we do not start, we are never going to get there. I know the Leader -

Mrs Hiscutt - Through you, Mr President, were you going to say that?

Ms FORREST - The Leader did make a commitment that she would take this back to the Premier and ask him to instruct OPC to make that change. I look forward to the feedback from the Leader on that. It is ridiculous that we have to keep saying this. We have said it many times in this place. Aside from that, it does not change the intent of the legislation.

Regarding people who are working close to and beyond retirement age, it was pointed out to me by the lawyer who deals in this space, that the idea of section 87 is to let the tribunal extend the cover period beyond pension age where the worker can prove they would have kept working beyond pension age. However, some workers cannot meet the terms of employment requirement. If terms of employment are taken to refer only to the contract of employment then some workers are on repeated short-term contracts that run out.

We know that. If you are on a two-year employment contract, it is assumed you will have to renew it, so it is reliant on your terms of employment, and your employment contract, which is short term. I need some surety that these people are not going to be significantly disadvantaged. We use short-term contracts far too much in our government departments, particularly in health and probably in the fire service as well.

Even if these workers should have had further contracts, they do not qualify potentially because of the new terms and conditions provision. Some workers do not have contracts, specifically - public servants who are appointed to the position rather than contracted. I want some clarity from the Leader about people in those circumstances where their terms and conditions of employment may not make it clear they were willing, able and intending to work beyond their pension age

The other question I want people to be clear about is in terms of applying the legislation; it is prospective not retrospective. We understand from the briefing that there are currently only 52 workers who would fit into this new definition. It is a small number and one would think that a retrospective application could apply for these people, particularly if they have been attending fires already. Six of those 52 are already covered, taking the number back to 46. I am interested in why the decision was made to make it only prospective.

As I understand it, the insurers did not complain too much when we increased the pension age in 2017. The insurers are the ones who make the noise about this sort of stuff as they have to pay the premiums. To be fair, it should not come down to money. I do not believe the insurers kicked up a massive stink last time. I would remember that if they did, unless I have forgotten it. I want some clarity as to why that decision was made, bearing in mind that it would not be a huge financial burden for the insurers because it is only 46 people who potentially could be covered under this. Hopefully none of them will need it, but sadly we know some of them might and some of them may succumb to a range of those cancers I named earlier.

I support the intent of the legislation. It is important we insure workers who put themselves in danger on our behalf to protect us, to protect our homes, buildings, and forests. We are at risk of a pretty sensational bushfire season again this year, and I fear for the south-west and the Tasmanian Wilderness World Heritage Area which is still really dry. It is important that we protect the workers who protect these special places in Tasmania and work to protect us.

Recognition of Visitors

Mr PRESIDENT - Before I call the next speaker, I welcome to the Chamber Year 10 from Deloraine High School. The lovely town of Deloraine is in the member for McIntyre's electorate. The Legislative Council consists of members from all around the state who represent different areas and at the moment we are going through the Workers Rehabilitation and Compensation Amendment Bill 2022. This is called the second reading stage and it is where members signal their support or otherwise for legislation. Once members speak on the bill, then we go into a Committee stage where we go through it, clause by clause. You might have heard the member for Murchison talking about different clauses, and that will be looked at more closely when it goes into the next stage, into the Committee.

We hope you are enjoying your time here in the parliament, and I am sure all members of the Legislative Council warmly welcome you to our Chamber.

Members - Hear, hear.

[11.35 a.m.]

Ms LOVELL (Rumney) - I am very pleased to speak in support of this bill. I will start by noting, given that we are talking about the Workers Rehabilitation and Compensation Amendment Bill, which is obviously amending our act that deals with workers compensation, that today is actually Go Home on Time Day. This campaign was established by the Australian Council of Trade Unions (ACTU) to remind people of the importance of work/life balance, and it is timely to note that, given the topic that we are debating today.

The latest research from the Australia Institute reveals that the average Australian works six weeks of unpaid overtime per year, which is a value to that worker of $8000 in 2022. The total value across the labour market of that unpaid overtime is $125 billion.

I am not about to complain about our working hours, because that would be entirely inappropriate, given the -

Mr PRESIDENT - I think you have already. You have set the challenge to the Leader that we go home on time.

Ms LOVELL - Well, on time for us does not necessarily mean the same thing. Given the number of hours we put in, in the Chamber, compared to the number of hours that many Australians, and many Tasmanians work in their jobs, each and every day, it is a timely reminder of the importance of that work/life balance and in a job or a working environment where that is not managed well, the impact that that can have on people's emotional and physical wellbeing.

I commend the ACTU and the union movement in Tasmania for the continual advocacy for workers' rights. In regard to this bill, particularly the United Firefighters Union which I know, has been heavily involved in consultation on this.

With previous amendments to this same clause, we have had advocacy from the Community and Public Sector Union (CPSU) and other unions. I acknowledge that, because

I know that this is something that is core business for the union movement, protecting workers' rights and particularly safety at work, physical, emotional and mental safety. They do an outstanding job, and I shudder to think where workers might be without that continued advocacy.

I support the bill, and note that the amendments to section 27 are to extend the presumptive workers compensation cover for those particular cancers noted in schedule 1 to -

Ms Forrest - Schedule 5.

Ms LOVELL - Sorry, schedule 5, to this group of workers who undertake these operations in the Bushfire Risk Unit, noting that the Bushfire Risk Unit was not a unit that was in existence last time we amended this bill. That is why we need to do that now. I am appreciative of that, and appreciate the fact that the Government has brought this to the parliament to be addressed quite quickly.

I have a question for the Leader and it is related to workplace safety for firefighters, and the member for Murchison mentioned it. It was reported seven days ago that there was a notice, a stay put on particular equipment in the north-west, where some mould was identified in breathing apparatus used by firefighters.

I do not think any of us need to be reminded of the danger of mould, particularly in breathing apparatus where it is being inhaled directly into your lungs. That is a significant safety concern, so I ask the Leader if there is any advice available as to action being taken on that particular safety issue?

I also note the member for Murchison mentioned the cancers that are covered by this act in schedule 5. I draw the attention of members and the Leader to the United Firefighters Union's advocacy to have schedule 1, extended to include -

Ms Forrest - Schedule 5.

Ms LOVELL - Sorry, schedule 5. I am going to call it the relevant schedule - the relevant schedule amended to extend the coverage to an additional number of cancers. There are an additional seven cancers where there is emerging evidence that these cancers are also caused by firefighting operations. I will read part of a letter provided to me from the United Firefighters Union which was part of their consultation and submissions into this bill. Reading from that letter, the United Firefighters Union says:

> In reviewing or amending section 27, the WorkCover Tasmania Board should provide further recommendations to Government that schedule 5, Diseases of Firefighters, in respect of which there is a presumption of cause, also be amended by the introduction of additional cancer types, these being cervical, ovarian, pineal, thyroid, pancreatic, skin and lung. This would be in keeping with other jurisdictions around the world that have presumptive legislation.

There are a number of jurisdictions moving to include these additional cancers. The letter goes on:

> Firefighters are unavoidably exposed to a cocktail of toxins and carcinogens in the course of firefighting. Firefighters absorb these toxins and carcinogens through their skin. Although firefighters wear protective clothing, they cannot be fully protected as their firefighting personal protective clothing has to breath to prevent metabolic heat buildup. Therefore, while firefighters take every precaution to mitigate their exposure, including the use of breathing apparatus, they cannot prevent all exposure due to the absorption through their uniform and through the skin.
>
> The level of toxicity in smoke is increasing as the proportion of plastic materials and residential and commercial fires is increasing. As additional data is collected and new research is published, it can now be concluded that these cancers are more prevalent in firefighters than the general public and that this is the result of occupational exposure.
>
> Adding the additional cancers ensures equity for female firefighters that would be susceptible to gender specific cancer types and ensures all firefighters are covered under the act for those cancers such as skin, lung, thyroid and pancreatic, where a higher potential of occupational contraction exists due to the cocktail of toxins being absorbed through the skin. This would maintain the integrity and objects of the act prescribed by section 2A, including providing fair and appropriate compensation to workers and an effective rehabilitation and compensation scheme in relation to section 27.

That was signed by Leigh Hill, Secretary of the Tasmanian Branch of the United Firefighters Union.

I wanted to draw members' attention to that and noting in particular a number of those cancers are gender-specific. There is a risk whilst we have extended this provision to firefighters across a number of professions and a number of departments who are involved in these operations, there is still there inherently a potential additional risk for women firefighters. Given that there are efforts being made across a number of brigades to recruit more women into the profession, it would be appropriate we ensure that when they are exposed through their occupation through no fault of their own to an additional risk, we ensure they are covered appropriately.

I understand the WorkCover Board has responded to the United Firefighters Union and indicated they will look into this in the coming year. My question to the Leader is whether there is more information on a time line for that action and what we might expect to see and when we might expect to see that additional piece of work concluded?

I do note that the World Health Organisation has declared firefighting a cancer-causing profession. These provisions in our legislation in Tasmania are something we do need to protect. I am proud it was a Labor government that introduced these provisions and it was nation-leading at the time. A number of other jurisdictions have since followed suit, but it is something Tasmania can be proud of that we were the first jurisdiction to move on this very serious issue.

I move now to the amendments to section 87 which are in relation to payments to injured workers post reaching pension age. The member for Hobart showed a particular interest in this

last time we debated these amendments. He was advocating quite strongly for older workers and for some consideration to be given to amendments that would go some way to addressing this issue, because there is a significant inequity currently for older workers who are injured as they are approaching pension age. We know pension age is supposed to be the age where people are looking to move onto a pension or move away from working and into retirement. We also know it is becoming less common these days as people are approaching retirement age and finding themselves in a position where they cannot afford to retire. Woman, particularly are reaching that age with less income, less superannuation and in a much less established position to be able to move away from work and retire as they might have done in previous decades.

We also know older workers can obviously be susceptible to injury, particularly when you look at a lot of the workforces where the demographic of those workforces is ageing. In a lot of cases, those workforces involve quite physical work such as caring professions, cleaning, a number of workforces where it is typically older people and, in a lot of cases, older women who are in those roles.

I am pleased to see these amendments because I have seen firsthand in my previous role the impact that can have on someone when they have intended to work much further for much longer because they are not in a position to be able to retire and we know people's superannuation balances have been impacted by a number of things. COVID-19 is probably the most recent thing that has impacted on people's superannuation balance and leaving older workers in a position where they cannot afford to retire as they might have thought they might when they started their career or working life.

I have seen firsthand the impact that can have on someone where they had intended to work for a long time to come, injured at work through no fault of their own and then found themselves in a position where their workers compensation payment ceased. They either cop that and go onto an aged pension or make whatever other arrangements they could have or fight that - which is not easy. Particularly for someone who has suffered an injury and particularly for someone who is going through a pretty traumatic and stressful time and in a system not geared towards being an easy system to navigate.

I have seen the impact that can have on somebody, entirely changing the direction they thought their life might take, indeed, the type of life they thought they might be able to enjoy in their retirement. This can be heartbreaking when you think about someone who has given their life to their career, they have contributed to society in a number of ways and in a number of roles. Often it is those jobs like cleaning, security work or aged care jobs where people have really been undertaking a service to the community. Then they find themselves on their own and that can be very heartbreaking. Whatever we can do as a parliament and, indeed, as a society to support older workers who have spent their working lives contributing to our community to not leave them in a position where they are left on their own with no support is worth doing.

I welcome those amendments and I will leave it at that. I am pleased to see the bill before the parliament, understanding there is that additional work we want to see done on those additional cancers being included and looking forward to some more information from the Leader on that, but I support the bill.

Recognition of Visitors

[11.49 a.m.]

Mr PRESIDENT - Members, I welcome another group from Deloraine High School, Year 10, who are joining us today. Welcome to the Legislative Council. The Council is made up from members from all over the state and Deloraine is fortunate enough to be in the electorate of McIntyre and your member is there, waving. What we are currently doing is working through an amendment bill for the Workers Rehabilitation and Compensation Act. The stage we are in at the moment is called the second reading stage where members have the opportunity to make a contribution and discuss their support or otherwise for the bill. Once it passes that, it then goes into a Committee stage where members go through it clause by clause to ensure that it is robust legislation. I am sure all members will join me in welcoming you to the Legislative Council Chamber today.

Members - Hear, hear.

[11.50 a.m.]

Mr VALENTINE (Hobart) - Mr President, I am sure we all remember firefighting and ambulance officers coming here and listening to the debate the last time this was dealt with, and how appreciative they were that their circumstances had been covered. However, there are some that missed out on having that same level of cover. It is important that it is put right, and this bill does that.

Mrs Hiscutt - Through you, Mr President, for clarity that group was not there when the previous bill was done.

Mr VALENTINE - No.

Mrs Hiscutt - They were not missed out, they just were not there.

Mr VALENTINE - Okay, they simply were not there.

Ms Rattray - So they missed out.

Mr VALENTINE - So they missed out. It is all in the words.

Ms Forrest - They are now being included because they are there.

Mr VALENTINE - Yes.

Ms Webb - Since they have existed they have missed out.

Mr VALENTINE - Well, that is cleared up. At the time, some concerns were expressed by the Council on the Ageing (COTA) about whether older people were being dealt with fairly and reasonably. I would like the Leader to fully clarify each of the groups that were consulted about this. Through contact with the Council on the Ageing, I know that they definitely are very supportive of this bill. For anyone who might wonder, they are very supportive. During

the briefings we heard that it was their representation that has helped to devise the amendments that are before us today.

Ms Rattray - Congratulations on their advocacy, through you, Mr President.

Mr VALENTINE - Yes, congratulations on their advocacy. It is good to see that the Government listened to them, and I congratulate it for doing that. Life is not going to get any easier for people who are nearing retirement and finding that they need to continue to work and earn a dollar to properly provide for themselves and their families. Therefore, having these extensions to circumstances that they might find themselves in - such as being injured - and having the extra 12 months added to that period as provided for here, is a good thing and will give quite a degree of comfort to quite a lot of people.

I also agree with the member for Murchison about the 53 who are presently 'on the books', if I can put it that way. Is it 53?

Ms Forrest - Fifty-two employed, but six are already covered.

Mr VALENTINE - Six are already covered. Yes. It would be good if there could be some acknowledgement of those and to also have them covered. The Leader might cover why that cannot happen, or why it should not happen. It is important to consider them. I support the bill as it presently is, and I will listen to further debate.

[11.54 a.m.]

Ms ARMITAGE (Launceston) - Mr President, I certainly support this legislation and I consider it is a very good amendment to the principal act. We all know that firefighting or fighting bushfires is difficult work, often in challenging conditions. We learnt last time with the principal act about the carcinogens and the likelihood of firefighters contracting cancer at work.

Ms Forrest - Also the building fires that are particularly toxic.

Ms ARMITAGE - You do not know what people have in their homes, either. I always remember with car fires, the carcinogenic nature of the rubber and stuff when it burns.

Mr Valentine - It can be all sorts of things - chemicals and sprays and the like.

Ms ARMITAGE - That is the real problem. As they say, 'firefighters and our emergency services go in, where we are running out'. We need to make sure that we protect them. I am very pleased to see that the bill amends section 27 to include a group of workers who are currently not covered by the presumptive provisions of section 27 and these workers are part of the Bushfire Risk Unit of the Tasmania Fire Service. I am also pleased to see that the occupational firefighter definition will be changed to include the new definition that will be occupational firefighter.

Age is very important as well. We all know, as mentioned by other speakers, that people are working longer and, obviously, there is a real need. However, I am sure that particularly in those areas you need everyone you can to get out there in times of bushfires. They should be supported and protected. I am very pleased that the amendments provide that where a worker is injured at work, two years - which has changed from the current 12 months or

more - before the worker reaches the pension age, entitlements to weekly payments will cease when the worker attains the pension age and that if the injury occurs when the worker is less than two years - which was changed from the current 12 months - before the date on which the person attains the pension age, then entitlements to weekly payments will cease on the date two years - increased from one year - after the injury occurs.

The only problem with the bill is that there does not seem to be provision for existing workers who are older and the disadvantages that may occur. I am not sure whether there are any plans for the Government to look at that in the future; but people are working later and working older. Your age should not matter - if you are injured at work, you should be covered until the date that you recover.

I appreciate the bill before us. It is certainly an improvement on the principal act, and I support the bill.

[11.57 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have quite extensive answers here. I will start with some questions that were asked during the briefing stage.

The member for Murchison asked about section 27 being applied prospectively, and not retrospectively. No worker is disadvantaged by this provision in relation to section 27 being applied prospectively. A worker injured before the commencement date is able to make a workers compensation claim and have that claim considered. The previous exposure through bushfire prevention and bushfire operations would be factors taken into serious consideration by the employer. The change that this bill makes is to introduce the presumption of cause, not to create the entitlement to claim. I note that the other amendments to section 27, including on commencement, apply prospectively so this amendment is consistent with that approach.

Another question was, why is there a transitional provision for section 87 under previous amendments? The amendment to section 87 which came into effect on 1 January 2018 was intended to prevent a gap arising between a person turning 65 and reaching their pension age at the time the amendment was drafted. It was known that the Commonwealth pension age would be changing, so the potentially retrospective transitional provision was drafted to avoid that gap at that time.

Another question was: how is the significant function of the GBE and agency determined under 4(b)(a)(ii)? This subsection applies to determining whether the management of forests and parks is a significant function of the government business enterprise or agency. The subsection is worded broadly, in acknowledgement that the section on agencies and assignment of functions may change over time. This subsection is intended to cover Natural Resources and Environment Tasmania and Sustainable Timber Tasmania and the relevant government entities who engage in bushfire operations.

Ms Forrest - That is the whole of the section, that subsection is about GBEs alone. The GBE one is just Sustainable Timber Tasmania.

Mrs HISCUTT - Yes, that is correct, but the agencies cover the others.

Ms Forrest - Yes, that is the subclause before.

Mrs HISCUTT - In the event there is a dispute in the Tasmanian Civil and Administrative Tribunal, the member will take into consideration the overall functions of the entity as well as the intention of the parliament when introducing the provisions to determine whether a claim satisfies this criterion. However, I note that this subsection is not amended by this bill. The original section was inserted following an amendment to the 2017 bill as proposed by the member for Rumney during that Legislative Council.

How are the criteria of an employee being employed in whole or in part determined in clause 4(b)(a)? This criterion means that the presumption will apply regardless of how many hours or workers may undertake bushfire and operations and prevention activities, so it is a presumption. It acknowledges that workers may have their duties split across work functions or may work on a part-time basis. It should be noted that the presumption is rebuttable. The employer may dispute the claim if there is an evidence to support that the cancer may not be caused by firefighting. The minimal exposure may be one such reason, depending on the facts in each circumstance, but it is the presumption first. I note that this subsection is not amended by this bill.

Ms Forrest - I accept that.

Mrs HISCUTT - It clears it up. What happens to a workers compensation claim for a worker injured less than two years before pension age, whose terms and conditions of employment do not allow for the continuation of employment beyond the pension age? We were discussing contracts at that stage?

Ms Forrest - Yes, short-term contracts.

Mrs HISCUTT - A worker whose terms and conditions of employment do not continue past pension age is not able to refer the matter to the tribunal to seek continuation of weekly payments. The purpose of the referral is to enable the tribunal to determine whether the worker intends to continue working under an existing contract of employment. If there is no contract of employment in place, there is limited basis for the tribunal to determine the worker's intention to continue working. I note that this subsection is also not being amended by this bill in front of us.

The member for Rumney asked a couple of questions about the seven other diseases. The United Firefights Union did not raise the matter of the additional diseases when it was consulted on the proposed amendments to section 27 before drafting in December 2021. The matter was also not raised when key stakeholders, including the United Firefighters Union of Australia, were informally consulted in 2020 regarding the potential scope of the review. However, during the debate in the other place, the minister said she would urge the board to get the processes moving as quickly as possible and the process for consideration of the other seven cancers has commenced. The diseases have been referred to the WorkCover Tasmania Board and the board has decided to examine the matter in 2023. The diseases could not be considered during the review of section 27 because the matter was not raised until the review had been completed and the report tabled in parliament. There is a significant body of work, including actuarial advice which requires completion before a recommendation can be made to the Government on this request. The minister has made a pledge in the other place on *Hansard* she will urge the board to get the process moving quickly.

What consultation was taken on the bill? The question was, who was consulted? A draft of the bill was released for consultation on 21 March to 11 April 2022. Further consultation, specifically on section 87, took place in June 2022. Earlier consultation on the proposal to amend section 27 took place with key stakeholders in December 2021. Consultation also occurred earlier on sections 27 and 87 in the respective reviews of each section, commencing in 2020 for section 27 and 2018 for section 87. There was also consultation during the WorkCover Tasmania Board reviews.

The review of section 27 was largely actuarial in nature and examined the relevant claims data, as well as considering the expected costs of covering employees of the Bushfire Risk Unit of the Tasmania Fire Service, who undertake bushfire fighting and prevention operations.

The review of section 87 commenced with key stakeholder consultation, then public comment was sought on an issues paper, which was published in 2019 on the Department of Justice 'Have Your Say' web page.

Consultation on the Workers Rehabilitation and Compensation Amendment Bill. This is who was consulted. There were members of the WorkCover Tasmania Board; members of the WorkCover Tasmania Board advisory panel; members of the Workers (WCTB) Rehabilitation advisory panel; Self-Insurers Australia of Tasmania; individual licensed self-insurers; individual licensed insurers; Unions Tasmania; the Tasmanian Chamber of Commerce and Industry; the Department of Premier and Cabinet; the Department of Treasury and Finance; the Department of Police, Fire and Emergency Management.

While I am thinking on that one, the member for Rumney also asked about the mould. That is not this department, and we do not have that answer, but we have put a quick email in to the department to see if we can get that answer at some stage. I cannot guarantee it will be before the end of this bill.

Then we went on to the Department of Natural Resources and Environment Tasmania; Forestry Tasmania, trading as Sustainable Timber Tasmania; the United Firefighters Union of Tasmania; the Tasmanian Volunteer Fire Brigades Association; the Tasmanian Retained Volunteer Firefighters Association; the Community and Public Sector Union and the Australian Workers Union of Tasmania. Also consulted were the Office of the Solicitor-General; the Tasmanian Civil and Administrative Tribunal; the Mental Health Council of Tasmania; the Menzies Institute for Medical Research; the Tasmania Law Reform Institute; the Australian Institute of Health and Safety (Tasmania Branch); Safe Work Australia; the Law Society of Tasmania; the Council On The Ageing Tasmania; Equal Opportunity Tasmania; Worker Assist Tasmania; Tasmanian Association of Vocational Rehabilitation Providers; the Australian Nursing and Midwifery Federation (Tasmanian Branch) and the Australian Human Rights Commission.

Mr Valentine - I did ask.

Mrs HISCUTT - You did ask and I refuse to table. I am going to read it.

Written responses received from: the Australian Society of Rehabilitation Counsellors; Suncorp (trading as GIO); Department of Premier and Cabinet; Department of Treasury and Finance; Department of Police, Fire and Emergency and Management; the Department of

Natural Resources and Environment Tasmania.; United Firefighters Union of Tasmania; Safe Work Australia and the Council On The Ageing Tasmania.

Ms Rattray - Fair to say, that is extensive.

Mrs HISCUTT - I think that is it. I think I have everything there.

Hopefully if we get into the Committee stage, and I get a response on that question for the member for Rumney, I will just deliver it. Other than that, I will get it to you as some stage, if I get it. Thank you.

Bill read for the second time.

WORKERS REHABILITATION AND COMPENSATION AMENDMENT BILL 2022 (No. 48)

In Committee

Clause 1 -
Short title

[12.09 p.m.]

Mrs HISCUTT - It appears I have a response for the member for Rumney about mould in the breathing apparatus, and I know the member for Murchison mentioned this also. The Tasmania Fire Service has provided information in response to that question. The Tasmania Fire Service has a regular check and testing regime in place. As a result of the discovery of mould, further investigation is being undertaken in consultation with Draeger, the manufacturer of the breathing apparatus, to understand why the mould has developed given the checks in place.

A working group is being established to further understand the situation. The work will include a review of the current testing regime and identify if additional components or processes are required. A program of works to address the concern is being conducted across all breathing apparatus in consultation with Draeger.

Clause 1 agreed to.

Clause 2 and 3 agreed to.

Clause 4 -
Section 27 amended (Presumption as to cause of certain diseases in relation to fire-fighters)

Ms RATTRAY - Some more clarification around 4(b)(a)(ii). I know, Madam Chair, you asked the question about a significant function and I heard and listened to the response from the Leader. I am trying to understand if it is relating to Sustainable Timber Tasmania (STT), or Forestry Tasmania trading as STT, how could it be anything other than a function? Whether it is significant or insignificant, it is still a function of that entity when you look at 'of which is to manage forests or parks'.

I need to understand why 'significant' needs to be there. In my view, it should just be as a matter of course, a function, significant or otherwise.

Mrs HISCUTT - I think I understand this. We talk about STT, 'a significant function' is forestry. This needs to be in here to be flexible for any future changes in structures where the GBEs undertake other functions. It is for flexibility for the future. At the moment, STT's significant function is forestry, but it may change in the future, and that will cover that.

Ms RATTRAY - Is it envisaged that there is any other GBE that this might apply to, now or into the future? Does it only relate to STT? Is that the only one? At this point, they are the only GBE that manages forests and parks that I am aware of. Actually, they do not manage parks as such, oh, national parks. I am just interested.

Mrs HISCUTT - At this time, point in time, yes.

Clause 4 agreed to.

Clause 5 -
Section 87 amended (Cessation on account of age of entitlement to weekly payments)

Ms RATTRAY - In regard to a worker applying to TASCAT for a determination, I believe that is under this area. What is the process for that? Is there some process and procedure on how a worker would apply for a determination for an extension? That was how it was framed in our briefing this morning, to apply for a determination on extending a tenure. What is the process of that function and how onerous might that be?

Mrs HISCUTT - The process will go to conciliation before it gets as far as the tribunal. Most are resolved at the conciliation stage, but there is a process to go to the tribunal if needed. As I said, most are resolved at that stage but the minister has committed in the other place, because we are talking older workers, that she will work with COTA and Worker ASSIST to assist those people when they need help to ease the burden of doing it. Most are dealt with at the conciliation stage.

Ms RATTRAY - Some clarity on that process - is that mediation/conciliation process mandatory? You have to go there first before you arrive at TASCAT at the tribunal stage? Also, you talked about COTA providing some support services or somebody else? Is it envisaged it can be someone of a non-legal background or is envisaged it will take a legal representative to represent a worker in this area? That can be quite a long and drawn out process.

Mrs HISCUTT - Conciliation is the usual first step in all these matters. The work with COTA will involve preparing information and resources to assist workers to understand the process more clearly. Regarding not providing additional support persons, you do not have to have a lawyer there. That would be up to the conciliator if they deem it necessary. It is the same process with TASCAT.

Ms RATTRAY - You said conciliation is the usual process, but I asked was it mandatory, before you were able to get to the tribunal stage? We had a bill last week where it was mandatory to go through that process before you could take the next step. Is that the case, because you need to have two willing parties when it comes to mediation?

Mrs HISCUTT - The steps are, firstly tribunal, which include conciliation. This is to be done before a hearing.

Clause 5 agreed to.

Clause 6 agreed to.

Title agreed to.

Bill reported without amendment.

Third reading made an order of the day for tomorrow.

ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL AMENDMENT BILL 2022 (No. 46)

Second Reading

[12.23 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move that the bill now be read a second time.

The purpose of the bill is to further the independence of the state's Environment Protection Authority, improve public access to environmental monitoring information, and modernise environmental regulation of the state's major industries.

A modern and transparent regulatory system is important to Tasmania's economy and future prosperity, and provides certainty for businesses and the community. The bill, if enacted, will play an important role in protecting Tasmania's environment. It will also mean the public can have much greater confidence in activities that use the state's natural resources and oversight for those activities.

The bill achieves its purposes in three ways. Firstly, it completes the legal separation of the Environment Protection Authority - the EPA - from the Department of Natural Resources and Environment Tasmania, and provides certainty regarding the independent role of the director. Independent and robust environmental assessment and regulation is an essential part of Tasmania's planning and approval system through the resource management and planning system. These changes will foster public confidence in environmental regulation in Tasmania and promote certainty for proponents.

Second, the bill provides the director of the EPA with powers to release environmental monitoring information, which will improve transparency and allow public scrutiny of important information about the environmental effects of industries operating in the Tasmanian environment, further supporting public confidence in Tasmania's environmental regulatory system.

Third, the bill allows the creation of a new statutory instrument, the environmental standard, which can be used to set out the environmental management requirements for environmentally significant industries and pollutants. In addition, the bill allows for the

director of the EPA to make supporting technical standards to describe acceptable modern practices for environmental monitoring and related activities.

I will now talk about the separation of the EPA. The sections of the bill that relate to separation of the EPA include some significant changes to confirm the independence of the authority. For example, the minister's statement of expectations to the EPA board will be reviewed after a maximum of five years but the bill also includes a provision allowing the statement to be reviewed by the minister at any time, should the need arise.

Related provisions require a statement of expectations to be consistent with other provisions in the act and to explain how it supports the intent of the act.

Importantly, the bill also clarifies that the director of the EPA, within the scope of their functions and powers, is to act without direction from anyone, including the minister.

Release of monitoring information. The bill proposes that the director be able to release any relevant environmental monitoring information collected and provided by the holder of an environmental licence or permit, with or without the permission of the person or body who provided the information. In this context, 'relevant information' means any test or measurement results, reports of environmental condition, photographs, or audiovisual recordings required under that licence or permit. It is important that where the operation of a business is having an effect on the environment, the director has the powers to make this information publicly available.

The bill includes an important safeguard requiring the director to consider whether any relevant information relating to the business affairs of a person would be exempt within the meaning of the Right to Information Act 2009. This is important because it ensures consistency between the RTI act and the act amended by this bill. Exemptions include matters such as business affairs of a third party, disclosure of personal information and information obtained in confidence.

The environmental standards. The Government is developing a new 10-year salmon plan to be enacted in 2023. One of the guiding principles of the plan is strict independent regulation. It is therefore the intention that the first environmental standard prepared under this proposed new legislation will be for marine finfish farming, which is a vital part of the state's economy and needs strict, contemporary regulatory management.

However, this is only one potential application of the environmental standard. The environment standard may also, for example, be the mechanism by which Tasmania meets its commitment to implement the Commonwealth's Industrial Chemicals Environmental Management (Register) Act 2021 as part of the Tasmanian regulatory framework, thereby ensuring a nationally consistent approach to the environmental management of industrial chemicals.

The Government may also explore the possibility of an environmental standard for waste management in Tasmania that may include provisions for the management of controlled wastes and disposal of tyres.

In terms of content, the bill allows an environmental standard to contain provisions relating to scope, administration, technical standards, conditions or restrictions on a permit or

other instrument, functions and powers of the director and board, and offences. The ministerial powers to make environmental standards are significant and require an appropriate level of oversight. The minister has therefore ensured that draft standards, amendments and revocations must go through a formal consultation and public advice process with standards to be tabled in both Houses of Parliament, where they will be subject to the disallowance provisions of the Acts Interpretation Act 1931. It is intended to include these and any other requirements of the director and board in a new statement of expectations if this bill is enacted.

In conclusion, it is important that Tasmanian industries have certainty about their operating conditions and it is also important that the public has confidence in the EPA's role as an independent regulator and manager of environmental monitoring information. The bill provides the legal foundation for a contemporary, proactive approach to these matters in line with equivalent national legislation.

I commend the bill to the House.

[12.31 p.m.]

Ms WEBB (Nelson) - Mr President, I rise to place my comments on the public record regarding the Environmental Management and Pollution Control Amendment Bill 2022. I must say, I find myself thinking that this is something of an odd bill. On one hand, at a macro level, it seeks to deliver on an important measure that many in the community have been calling for, for a considerable amount of time: an independent Environment Protection Authority.

However, on the other hand, it has all the hallmarks of an interim, a stopgap measure, producing an EPA that is not actually as independent as many in the community may have felt they understood to be promised by the Government's commitment. Following the gazettal of the State Service (Restructuring) Order (No. 2) 2021 on Friday 26 November last year, the Environment Protection Authority formally separated from the department on 1 December last year and the minister stated during House of Assembly budget Estimates on 8 June, this year, and I quote:

> To further support that separation and bring greater transparency to environmental regulation, we are proposing amendments to the Environmental Management and Pollution Control Act. These amendments will further strengthen the independence of the EPA and its statutory assessment and regulatory functions and clarify the powers of the director.

That was in the budget Estimates session from the minister.

This bill appears to be all that the Government is proposing to progress in order to formalise that independence of the EPA. I do not believe there are other measures to come and hence, there is a sense of disappointment from some key stakeholders and others about the degree to which this achieves the expected outcomes. The words sounded very positive, but the legislative reform is relatively minimal.

The second reading speech delivered by the Leader for the Government here lists three key areas of reform contained within the bill to deliver the minister's stated intent, with the contention being that those key areas of reform will:

> … play an important role in protecting Tasmania's environment. It will also mean the public can have greater confidence in activities that use the state's natural resources and oversight for those activities.

The fact there is a loud and legitimate call for a truly independent statutory authority as the state's EPA is acknowledged by the Government promising to strengthen the independence of the EPA. This makes the fact that this bill misses that opportunity to deliver so frustrating and potentially bitterly disappointing for many. To be clear, the limited parameters by which the Government set itself to work on this reform was of its own choosing. It could have broadened those parameters and consulted on a comprehensive review to deliver that long-awaited standalone, statutory independent EPA. Clearly, that is not to be, or at least not yet.

We are left with having to evaluate this bill against the limited goals the Government has set itself. Instead of a statutory independent entity, the revamped EPA as envisaged by this bill is described as a state authority by the Government. It is specifically referred to as a standalone state authority on page 4 of the explanatory paper for consultation draft which was provided with the draft bill.

I asked for clarification on that designation in our briefing on the bill, and was pointed to the State Service Act 2000 for the definition of a state authority. That act defines 'State authority' as:

> …means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another State authority, but does not include a Government department.

I also noted in the Tasmanian Audit Office document titled *Reporting by Tasmanian Public Sector Entities*, the following description of a state authority:

> (e) A State authority that is not a Government Business Enterprise;

What constitutes a state authority is quite broad. Any entity that is not captured by one of the other more specific categories will most likely be a state authority.

Then it quotes the Audit Act definition and goes on further to say this:

> This definition is quite all-encompassing, not only capturing many larger specifically created public sector entities, but also the many smaller trusts, boards or management authorities. For example, the Theatre Royal Management Board.

As well as the Theatre Royal Management Board mentioned in the Audit Office document as an example, I heard in the briefing that state authorities also cover entities such as Brand Tasmania, the Integrity Commission, Macquarie Point Corporation; and, possibly, the Port Arthur Historic Site Management Authority, although I note that is referred to as a GBE elsewhere.

In a nutshell, my understanding is that a state authority is a very broad label. It is basically a catch-all, which indicates that while still under State Service management, the entity is not within a department. It perhaps sits adjacent to any department. Calling this new EPA a state authority does not tell us much about its degree of independence, or give us much detail about its characteristics. On one hand, it should be self-evident. However, it cannot be stressed enough that, at the core of securing greater public confidence in our environmental governance and regulation, is the genuine independence of the EPA. In this regard, as stated by the Environmental Defenders Office (EDO) in its correspondence to members here on 7 November, this bill is - and I quote:

> A missed opportunity to provide for the best practice environmental regulator which given the expansion of industries such salmon farming in our previous coasts and inland waterways is sorely needed to protect the places Tasmanians love.

Members here may recall that the Legislative Council subcommittee Report on Finfish Farming in Tasmania presented findings and strong recommendations relating to environmental governance, including the need for independent, transparent and accountable regulation of the finfish industry by an independent EPA. We heard a resounding call for that, in the evidence presented through that inquiry. Clearly, the independent, transparent and accountable regulation called for in relation to finfish farming is required just as much across other industries and activities in this state.

It would be helpful for the Leader to clarify what is specifically meant when the Government describes the EPA under the provisions of this bill as 'independent'. What are the specific ways this new model has a greater degree of independence than the previous model in exercising the functions and powers that have been and continue to be the legislated functions and powers of the EPA board and the EPA director?

The minister's second reading speech states that one of the key things the bill does is to complete the legal separation of the EPA from the Department of Natural Resources and Environment. Further, the second reading speech closes with:

> The bill provides the legal foundation for a contemporary, proactive approach to these matters in line with equivalent national legislation.

I want the Government to explain the difference between 'legally separate' and 'independent' - if there is one. Also, is establishing a legally separate EPA the first step towards a fully independent agency such as an independent statutory authority, or something equivalent to what we might see in some of those independent EPAs in other jurisdictions?

Moving on, as noted in the EDO's submission to the consultation on the draft bill earlier this year, the mere existence of an independent EPA does not in itself guarantee the environment will be better protected, nor that development will be appropriately regulated without undue external influence. The EDO warns in that submission that an environmental regulator established without sufficient independence mechanisms, a lack of clear legislative criteria for decision-making, and with a specific focus on realising economic objectives, can lead to significant resource expenditure without corresponding improvement to environmental governance outcomes.

To be effective at truly improving environmental governance and environmental outcomes, an independent Tasmanian EPA must implement a comprehensive suite of strong governance measures. To inform ourselves on that point, I look to the national Environmental Defenders Office best practice EPA report, which outlines nine elements of strong governance.

These nine elements state that all EPAs should have the following:

Recommendation (1): Duty to develop and act in conformity with Cultural Protocols which are based on First Nations Lore, and to uphold internationally recognised First Nations rights of free, prior and informed consent and self-determination.

Recommendation (2): All EPAs in Australia should be underpinned by environmental justice frameworks that:

- acknowledge and address environmental racism;
- meaningfully define environmental justice;
- legislatively enshrine mechanisms to achieve environmental justice; and
- have a proper foundation in principles of human rights under international law.

Recommendation (3): A clearly defined role and duties to ensure objectives are achieved

Recommendation (4): An EPA should be established as an independent statutory authority that has:

- a clear independent governance structure, supported by a Board to provide strategic advice and direction;
- freedom from ministerial influence or being overridden by other agencies; and
- policies and procedures to manage conflicts of interest.

Recommendation (5): An EPA should be accountable to the public, which includes:

- well-defined and clear criteria for decision-making;
- mechanisms to review decision-making, including open standing for judicial review and merits review;
- the regular publication of State of the Environment Reports; and
- powers to scrutinise performance, both of the government and itself

Recommendation (6):	Transparency in decision-making through disclosure and community engagement to support accountability.
Recommendation (7):	Sufficiently empowered to protect the environment and human health.
Recommendation (8):	Sufficient and certain funding to fulfil their functions.
Recommendation (9):	Relevant expertise to support decision-making that is science-based and provides for First Nations justice and environmental justice broadly.

Mr President, that is a lengthy list but it is important that this is worked on at a national level to identify the nine elements that need to be there to ensure there is strong governance in an independent EPA. When evaluated against those required elements of an independent EPA, this bill falls considerably short. It is beyond the scope of the debate to go into exhaustive detail of what I believe are missed opportunities here, but I will focus on a couple of key areas.

An independent EPA should be underpinned by an environmental justice framework, according to those elements laid out at a national level by the EDO, to ensure that equality in environmental protection is there, and it is not provided for here in this bill. A key related absence here is any inclusion of a need to develop and act in conformity with cultural protocols developed by the Tasmanian Aboriginal community, and to uphold internationally recognised First Nations rights for free, prior, and informed consent and self-determination. I am interested to hear from the Government what consideration was given to the inclusion, or reference to, some form of environmental justice framework alongside the establishment of an independent EPA.

Mr President, if we look at the element of defined principles and role, arguably this bill misses the opportunity to provide the EPA with a clearly defined role and duties to ensure objectives are achieved. A quick canvass of EPAs around the nation reveals that many have a clear set of principles or objectives outlined up-front in their respective establishing legislation. These boost public confidence - something this Government has stated it is keen to foster here as well - by providing clear criteria and expectations against which the EPAs actions can be directed, seen, and evaluated.

In some interstate cases, it is clear that the inclusion of legislated principles and objectives replaces any equivalent ministerial statement of expectations. In fact, when it comes to principles and objectives, I wonder where we can find it plainly stated in this legislation - or the primary legislation - that it is the primary responsibility of the EPA board and EPA director to protect the environment and human health consistent with the human right to a healthy and safe environment, which we will recall was one of those elements the EDO, at the national level, considered essential for an independent EPA entity.

It should go without saying the EPA should be independent from ministerial influence, that of other government agencies or industry capture. However, to protect both the public interest and the EPA itself, this independence from ministerial influence should be clearly codified in legislation. We can all see from this bill it will not be entirely the case for

Tasmania's EPA. The role of the minister is still heavily entwined through the governance model; from the statement of expectations, through to making, amending, and revoking the environmental standards. What consideration was given to a model, such that we might see in another jurisdiction, where there is less involvement through the governance elements of ministers.

The Government's second reading speech mentions providing certainty on the role of an independent EPA director. I have some questions regarding the independence of the EPA director under this model, particularly given the requirement in Section 18 of the principal act that states:

Director, Environment Protection Authority

> The Governor may appoint a State Service officer or State Service employee to be Director, Environment Protection Authority and that person holds office in conjunction with State Service employment.

That is in the principal act and I do not believe it is being amended by this bill. The EPA director is going to be a State Service officer, holding the office in conjunction with State Service employment. I note that is different to some of the other statutory positions we have in this state such as the Auditor-General, the Anti-Discrimination Commissioner, the Chief Integrity Commissioner. They are all a bit different in their establishing legislation, but the common factor is that they are not - I do not believe - State Service employees in their roles.

Can the Government provide an explanation on the nature of the director EPA position under this model? Is it analogous to any other statutory positions we might look to in other areas? How is it consistent with the commitment of delivering an independent EPA if the director is a State Service employee or officer - basically an employee of the government? Is this an arrangement that corresponds to other jurisdictions for their equivalent positions? Is it a model we can look to elsewhere?

I also note the bill misses the opportunity to provide the EPA board with a role in appointing, or providing oversight of, the performance of the director's functions and powers under the act. In Victoria, under their model the EPA board has the power to do the appointing, and provide the oversight of the CEO of the Victorian EPA. That role is equivalent to our director's role. Can the Government provide an explanation as to why the EPA governance structures were not addressed in this bill in terms of the relationship between the board and the director? For example, why is the board not responsible for the employment, appointment, or supervision of the director? Or perhaps I have misconstrued that and there is more of a direct role there. Perhaps, the Government could provide an explanation?

Similarly, there was an opportunity in this bill to detail the EPA director's functions or powers quite explicitly. Just as section 14 of the principal act details the EPA board's functions and powers, we do not seem to have an equivalent description of the EPA director's functions and powers. I note that clause 8 of this bill which inserts section 18A - Independence of Director - into the legislation, specifies the instances in which the director is not subject to direction from anyone in relation to specific decision-making powers and it lists the types of decisions the director has independence within. In a way, section 18A that is being inserted with that list, becomes a de-facto list of the director's functions and powers, but it is not necessarily presented as a clear and exhaustive list of those functions and powers. I am not

clear as to why there is not a straightforward articulation of those and perhaps the Government could provide an explanation of why that is not the case?

Significantly, I also note the bill fails to provide a process for the management of any arising conflicts of interest of the director. We would all recognise this as a critical aspect of any system of good transparent governance. Certainly, some of those other statutory roles mentioned earlier have something specific in there establishing legislation that deals with conflicts of interest, and we have seen it before in other legislation for particular entities or roles.

I want to understand why the Government has failed to address that in this legislation, and in its absence from the legislation, what would be the arrangements for the identification, the documenting, and the transparency on managing conflicts of interest that may arise in relation to the director?

It is also worth noting the national EDO report on effective independent EPAs I talked about earlier, states under that recommendation five, as an accountability mechanism to ensure responsibilities are discharged with integrity in the public interest, that a state of the environment report should be published regularly by the EPA. I find it astounding, given the recent controversy over Tasmania's missing State of the Environment Reports that there does not appear to be any consideration provided while developing this bill to finally house the State of the Environment Report within the further independent EPA, particularly since the recent announcement by the Planning minister, Mr Ferguson. That announcement carefully states that the Tasmanian Planning Commission has so far only been directed to produce the next state of the environment report in 2024, leaving open where the responsibility for any future state of the environment reports will lie.

Interestingly, with the Northern Territory aside as the only jurisdiction without a requirement to produce a state of the environment report, we can look to other jurisdictions and see in New South Wales, Western Australia and South Australia where they have state of the environment reports all as responsibilities of their respective EPAs. In the case of Victoria, they have it with their Commission for Environmental Sustainability. Queensland locates state of the environment reporting responsibilities with their Department of Environment and Science. However, their EPA is certainly a common location for that responsibility.

I do wonder whether this bill is a missed opportunity to signal that the uncertainty over our state of the environment reporting in Tasmania has been resolved once and for all, by allocating that responsibility for producing the report with this new, independent EPA. What would then follow would be an assurance of adequate funding and capacity to undertake that task, one would hope. It may well be that that comes to pass in time and it is just that decision-making on it has not been able to be completed within the time for bringing this bill forward. This may well be the case, and we may find at some stage down the track that responsibility does arrive at the door of the EPA as configured under this bill.

As we all know, independent statutory entities must still be accountable to the parliament and to the Tasmanian public. While there is some provision in the bill for the EPA director to publicly release information and data in a more transparent way, reporting to the public and director of the EPA itself seems to be fairly light on. For example, currently the minister is required to issue a statement of expectations to the EPA every two years. Clause 6 of this bill, Section 15 amended, now intends to extend that time frame out to five years.

Now there is some debate about whether there even should be a ministerial statement of expectations given to a truly independent statutory agency. Perhaps a truly independent entity should not be subject to ministerial direction in that. However, given the model we have presented, I would be interested to hear what consideration the Government gave to a fully independent EPA that would not be subject to ministerial statements of expectations, as per some of those interstate jurisdictions.

It could be argued in the absence of a clear set of principles informing the EPA's actions and priorities, the statement of expectations from the minister remains a form of parliamentary accountability. However, the point here is that extended time frame from two years to five years potentially leaves concerns over the risks of those expectations becoming outdated, but while still remaining in effect. I understand they can be brought forward and reviewed at an earlier stage, but it is interesting because it is worth noting that the most recent ministerial statement of expectations that we have, and then the EPA board's corresponding statement of intent against that statement of expectations, appears to be expired - so we are currently outside of a period that was defined as being covered by the current statement of ministerial expectations.

Two that I found available on the EPA's website are for the years 2016-18, and more recently, 2019-20. Here we are in 2022. If the Government is finding it difficult to keep up with the current requirement, I wonder whether it is mere expediency that the requirement has been amended in the bill, and extended out to five years to give a bit more breathing room, rather than for any policy reasons.

I wish to hear from the Government if there are policy reasons for a five-year time frame for ministerial statements of expectations in the bill, or whether that is predicated on practical matters - that five years is easier to achieve, given that we currently find ourselves outside of a two-year requirement.

Recognising the important role this bill is intended to play in protecting Tasmania's environment, and the central priority of managing and mitigating the impact of climate change - which we have recently acknowledged, in the passage of the review to the Climate Change (State Action) Act of Tasmania - I wondered why there is no connection made here between the two. As raised by some stakeholders, there would seem to be an opportunity in relation to clause 17, Part 7, Division 1B, inserted, by expanding new clause 96P, in relation to proposed new environmental standards.

I ask the Government, what consideration was given to requiring that environmental standards developed under this act, are consistent with any Climate Change Action Plans or any Sector-Based Emissions Reduction and Resilience Plans under the Climate Change (State Action) Act 2008.

We all know that our environment, our entire ecosystem, our biodiversity, and ultimately our health and our economy is experiencing its biggest threat, posed by climate change. I am not sure why we would, in some sense, defy logic and probably also community expectations, to be progressing and codifying a legally separated EPA which has a very significant environmental focus without linking it to the efforts we have in other areas and through other legislation to counter climate change. Perhaps the Government could provide some commentary on why there is no explicit link.

Further on the issue of environmental standards, I want some explanation of the review time frame in the bill. The proposed new section 96W in the bill proposes a review of any environmental standards made within the six-month period beginning on the 10th anniversary of the date that any such standards came into effect.

Environmental standards are pivotal to this bill and to the effectiveness of the EPA. It is very pleasing that they are going to be part of the mechanisms by which we regulate and monitor and protect our environment.

Currently it is proposed that the environmental standards will only be reviewed every 10 years. That gives me pause. A decade between reviews of such fundamental elements of our proposed environmental regulatory framework is not consistent with requiring persons engaging in polluting activities to make progressive environmental improvements.

For example, as one of the functions, it has the potential to lock in outdated standards or practices, or even just slide into outdated standards and practices.

I do not know that it is consistent, either, with the intent of bringing greater transparency to environmental regulation that the minister promised during the House of Assembly budget Estimates hearing on 8 June this year.

It also does not invite the community to hold, and I quote:

> … greater confidence in activities that use the state's natural resources and oversight for those activities.

As espoused in this bill's second reading speech.

The only rationale I have heard thus far about this time frame of 10 years, is that the environmental standards are somewhat equivalent to regulations, which generally have a 10-year review period applied to them.

On matters relating to environmental protection, especially in the context of rapid impacts of climate change, it would seem advisable to have a review period shorter than a decade. A five-year review is potentially more consistent with other major reviews that we have recently established in legislation, including in the new Climate Change (State Action) Amendment Act, with the Climate Change Action Plans, the Statewide Climate Change Risk Assessments, and the Sector-Based Emissions Reduction and Resilience Plans, all being set with five-year review periods in that legislation.

Sitting suspended from 1.00 p.m. until 2.30 p.m.

QUESTIONS

Status of Roads

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

[2.30 p.m.]

Leader, can you please advise the status of the following roads under construction or repair, both following the recent significant heavy rain events:

(1) the Sideling on the Tasman Highway;

(2) St Marys Pass; and

(3) what repair works have been carried out to Semmons Road, Scamander, due to the increased vehicle movements following the closure of St Marys Pass?

ANSWER

Mr President, I thank the member for the question.

(1) Work continues on the Tasman Highway through the Sideling following the landslip and undermining of the road in October. We have built an access ramp to the base of the gabion retaining wall structure and completed the initial road excavation. The gabion structure will support the road from below where the landslip has occurred.

We have also assessed trees on the landslip site which will be removed to stabilise the retaining wall foundations.

(2) Our contractor remains on site in St Marys Pass, working seven days a week to progress repairs. More equipment has arrived to assist in stabilising and protecting the road. We have completed protection works installed on the top side of the road to make the site safe for road workers, and commenced excavation works to prepare the retaining wall foundations.

We will have a firmer understanding of how long it will take to complete the road reinstatement once the foundations of the retaining wall structure are completed.

(3) Semmons Road/German Town Road and Upper Scamander Road are not part of the state road network, but are owned and managed by a combination of Parks and Wildlife Services, Sustainable Timber Tasmania, and Break O'Day Council.

We are working hard and collaboratively with all organisations and are aware that Semmons Road will be maintained by Sustainable Timber Tasmania while St Marys Pass is closed.

New Stadium in Hobart

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.33 p.m.]

With regard to the most recent announcements related to a Tasmanian AFL team and the alleged need for a new stadium in Hobart:

(1) if funding is sought, or offered, by the Australian Government to fund part or all of a new stadium, will the Treasurer and Premier ensure the funds granted for any new stadium are quarantined from the Commonwealth Grants Commission GST determinations to ensure the funds are not clawed back through reduced GST to the state, as was the case with the Royal Hobart Hospital grant funds;

(2) if not fully funded by the Australian Government, will funds be sought from the AFL;

(a) if not, why not;

(3) will other private funds be sought;

(a) if so, would this impact on the ownership and management of a new stadium by Stadiums Tasmania?

ANSWER

Mr President, I thank the member for the question.

(1) Yes, it is the Government's intention that any Australian Government contribution to the new stadium would be quarantined from GST calculations.

(2) It is currently intended that the AFL will make a contribution to the cost of the new stadium.

(a) Not applicable.

(3) It is too early to speculate on the final level of contributions to the stadium and any impact on ownership arrangements. The first important step is to secure an appropriate contribution from the Australian Government.

(a) Not applicable.

River Derwent and Estuary Management

Ms WEBB question to MINISTER for PRIMARY INDUSTRIES and WATER, Ms PALMER

[2.34 p.m.]

(1) The River Derwent and estuary are of critical importance to competing uses, the wider community and the environment. Can the Government confirm:

(a) is there either a statutory water management plan or a non-statutory water management statement in place for the River Derwent;

(b) if not, why not?

(c) when will a water management plan or non-statutory water management statement be completed for the River Derwent?

(d) when will a water management plan or non-statutory water management statement be completed for the River Derwent;

(2) when was the most recent comprehensive review of River Derwent e-flows, including climate change projections;

(3) in regard to Tasmanian Irrigation's South East Irrigation Scheme expansion, which is the largest ever proposed in Tasmania and proposes to take 41 000 megalitres of water from the river, primarily during summer months, can the Government confirm:

(a) who is responsible for doing the due diligence on the environmental impact of the SEIS;

(b) whether a detailed, not desktop, environmental impact assessment was completed to ensure that the greater SEIS will not have adverse impacts on the River Derwent system estuary or downstream users;

(c) what studies have been done to assess potential impacts and determine whether the previously recommended environmental flow provisions can be safely altered;

(d) how the proposed SEIS expansion aligns with the government-commissioned previous studies, Davies and Parslow 2002 with minor updates in 2005, which recommended that no further summer extraction could be taken without serious risk to the lower river estuary and the resultant embargo implemented to prevent further summer takes;

(e) given potential significant risks to downstream users and the environment, who has authorised the extraction of the large volume of water proposed in the SEIS expansion;

(f) the mechanism by which the Government regulates these activities; i.e. who is the responsible entity; and

(g) who will monitor and mitigate impacts associated with the extraction and potential impacts of this additional water?

(4) The Hydro is increasingly being asked to provide water for irrigation and other consumptive uses. Can the Government confirm:

(a) what assessment has been made to determine the impact these large diversions from Hydro facilities will have on the health of downstream river systems; and

(b) how these transfers are being assessed, managed and monitored within the Tasmanian government's broader water accounting and management systems, including where responsibility lies for environmental assessment decision-making?

(5) There are five flow-through fish farms located upstream of the Bryn Estyn Water Treatment Plant that discharge large nutrient loads directly to the river. Can the Government confirm:

(c) whether monitoring has identified these operations have discharged taste and odour compounds (T&O) and blue-green algae into the river system;

(d) whether pollutants from these operations have likely contributed to the water quality problems experienced in the Hobart water supply over the past five years; and

(e) what is the time line for the Government to phase out flow-through fish farms on Tasmania's rivers, particularly upstream of public drinking water supplies?

ANSWER

I thank the member for the question.

(1) While the Water Management Act 1999 provides for the preparation of statutory water management plans, these are not the only options to deliver sustainable water management in accordance with the objectives of the act. In situations where management is more complex and contested or environmental conditions are of concern, consideration is given to whether a non-statutory water management statement or a statutory water management plan is required. The Derwent catchment includes statutory water management plans in specific upper catchment areas, including the Clyde River catchment and Lake Sorell and Crescent.

Non-statutory water management statements have been prepared for the Shannon River catchment in 2018 and the Jordan River catchment in 2016. Tasmania's water management framework is being modernised through the implementation of the Rural Water Use Strategy over the next three years. Catchments, such as the Derwent, will be reviewed in the context of the modernised water management framework.

(2) I am advised that to support the management of water resources in the lower River Derwent and the upper Derwent Estuary, an environmental flows assessment was commissioned by the then department in 2002. This assessment focused on providing guidance related to the allocation and extraction of water from the lower River Derwent. The focus of this assessment was not on hydro power generation or the operation of the power station network in what is a highly regulated catchment. The environmental flow work undertaken in 2002 employed conservative methods that have been reviewed. Current practice would now use NRE Tasmania Tasmanian Environmental Flows Framework which encompasses a more holistic approach.

As part of the Rural Water Use Strategy and with funding from the National Water Grid Authority and the state Government, NRE Tas is currently undertaking a catchment yield science project examining contemporary climate data, the suitability of that data for Tasmania, and the best approach to incorporate updated climate data into NRE Tasmania's suite of hydrological models.

The goal of this project is to provide a pathway to update future climate catchment yield projections, which will inform water allocation volumes and future water allocation policy development. The hydrological models for the Derwent catchment will be updated accordingly, pending the results of the project.

(3) The proposed 38 000 megalitre Greater South East Irrigation Scheme is expected to incorporate and extend the existing south-eastern irrigation schemes operated by Tasmanian Irrigation. The proposed project is undergoing the normal staged pre-construction, environmental development and approval processes for Tasmanian irrigation schemes. The preferred option for the scheme involves access to water directly from Lake Meadowbank, removing the requirement to extract water from the lower River Derwent for the existing and extended schemes.

Currently, the project is in the water sales phase of development in which irrigators are invited to contractually apply for water within the proposed scheme. This phase informs the final design of the scheme, including the total water volume to be delivered and the business case.

At an appropriate point in the future when the design is finalised, the proposed scheme will be subject to the usual rigorous state and federal environmental assessment processes, which include the taking and application of the water supplied by the scheme. Of course, all necessary permits and approvals must be obtained, prior to the Government approving that construction of the scheme can commence.

As part of establishing the irrigation scheme - provided it is a viable proposed scheme - Tasmanian Irrigation will apply for the establishment of a water district under the Water Management Act 1999 and will become the responsible water entity for the district allowing it to operate the scheme effectively. Responsible water entities are required to report annually to the Minister for Primary Industries and Water on the operation of their water district, including compliance with all regulatory permits and approvals.

(4) (a) Requests are made from a variety of sources and depending on the source, responsibility for assessing them may sit with Hydro Tasmania or Natural Resources and Environment Tasmania. Where water is to be taken from a Hydro Tasmania storage, an assessment is done on the impact of Hydro Tasmania's ability to continue to meet our special license obligations, as well as other downstream riparian and environmental flow requirements, water level commitments and constraints.

(b) Once a transfer has been completed, the ongoing water accounting, management, or monitoring responsibility rests with Tasmanian Irrigation and NRE Tasmania generally. Tasmanian Irrigation has a water accounting and reporting system. In addition to meetings its usual irrigation district obligations, Tasmanian Irrigation also provides Hydro Tasmania with its annual usage information. All Hydro Tasmania water transfer agreements have metering and annual water reporting requirements.
Representatives from Hydro Tasmania and NRE Tasmania also meet periodically to monitor activities. This is in addition to frequent informal discussions on current water management issues.

(5) (a) Monitoring of taste and odour components is not required by the EPA in environmental licence conditions related to fish farm activities. Sources of taste and odour are often related to the growth of algae, rather than any direct compound released into the environment. Furthermore, there is no monitoring of blue-green algae in fish farm effluent. The EPA believes the risk is low and fish farms are unlikely to be a major contributing source of blue-green algae as high flows within farms are not optimal for algal growth.

The EPA requires four of the five flow-through fish farms to monitor and report on algal biomass and algal cover upstream and downstream of their discharge point.

(b) Nutrients discharged into waterways that have conditions that support algal growth, such as low flow, warm temperature, plenty of sunshine, contribute to algal growth including blue-green algae, which can influence taste and odour of drinking water.

Flow-through fish farms, along with other agriculture uses, like dairying, forestry and orchards, are all a source of nutrients in the Bryn Estyn catchment, and hence, may have contributed to taste and odour experienced in the Hobart water supply over the last five years.

(c) The Government has committed to phase out a flow-through system for all freshwater salmonoid fish farms over a certain size. This will involve working with the industry to establish time frames for transition of existing flow-through systems to fully recirculating systems.

River Derwent and Estuary Management

Ms WEBB question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.46 p.m.]

Following up on that, if I may. That answer to the last one specifically asked for a time line. Did you provide a time line?

ANSWER

The work we are doing with regard to the time line on the phase-out for those systems is part of the work we are doing in the development of the draft salmon plan which came out today. Of course, that consultation will feed into the final salmon plan to be announced next year.

That is part of the body of work. That is part of that consultation process to look at those time lines.

Emergency Accommodation Funding

Ms ARMITAGE to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.47 p.m.]

What funding is provided for emergency accommodation for people experiencing homelessness in Tasmania?

ANSWER

I thank the member for her question. The Tasmanian Government funds a total of 19 short-term supported accommodation (crisis and transitional) providers and three Safe Space providers across the state to a total of $23 522 228 ex GST.

In the north, the crisis accommodation services are:

- Safe Space, Launceston City Mission
- Magnolia, Launceston Women's Shelter
- Orana House, Launceston City Mission
- Karinya Young Women's Shelter
- Youth Futures
- Malana Youth, Family & Community Connections.

In the north-west:

- Safe Space, Salvation Army
- Warrawee Women's Shelter
- Oakleigh Accommodation Services, Salvation Army
- Youth, Family & Community Connections

In the south:

- Safe Space, Hobart City Mission
- Annie Kenney, CatholicCare
- Jireh House
- McCombe House, Salvation Army
- Hobart Women's Shelter
- Pods, Hobart Women's Shelter
- Mount Nelson Units, Hobart Women's Shelter
- Bethlehem House,
- Launch Youth Shelter, Pathways
- YouthCare, Anglicare
- Mara House, Colony 47
- Colville Place, Colony 47

Housing Connect Front Door services are the first point of contact for Tasmanians requiring housing and housing-related support. Housing Connect also assist Tasmanians who are homeless or at risk of homelessness with housing during times of crisis.

Housing Connect is provided by two lead organisations, Colony 47 in the south and Anglicare in the north and the north-west.

Anglicare in the north and the north-west is funded to a total of $7 969 414.99, inclusive of brokerage, which is $301 672.95, to operate Housing Connect.

Colony 47 in the south is funded to a total of $8 576 134.35, inclusive of brokerage, which is $301 672.95, to operate Housing Connect.

King Island - Shipping Services

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT.

[2.50 p.m.]

The long-awaited, long-lost and hopefully - I hope you have an answer to the question, honourable Leader.

With regard to the shipping service to and from King Island, noting the review conducted in 2018-19 that saw the continuation of the Bass Island Line and the subsequent removal of the direct Victorian service, will the minister commission a fully independent review of the shipping service that is arm's length from TasPorts, BIL and government to review:

(a) the regularity, the liability and timeliness of the BIL service delivery;

(b) freight costs;

(c) the freight task;

(d) private operators who may be interested in taking on the shipping and freight task?

ANSWER

I thank the member for her question. This one is a late arrival. The answer is Bass Island Line, a wholly-owned subsidiary of TasPorts, continues to provide a reliable service to King Island and customers have responded positively following the changes made to the service in March 2022.

However, the Government acknowledges ongoing concerns with regard to the cost of movement of freight to and from King Island by the state-owned company, which operates in a competitive commercial market. The Treasurer intends to commission an independent inquiry into matters around Bass Island Line's pricing policies under the Economic Regulator Act 2009.

Recognising the importance of establishing confidence in the BIL service, it is considered that an inquiry into matters affecting BIL's pricing policies would assist in addressing concerns with regard to BIL's role in the market. After more than five years of Bass Island Line operations, it is timely that a prescribed bodies inquiry is held to address this matter. An independent inquiry will allow prices and costs to be examined at arm's length from Bass Island Line, its parent company TasPorts and the government. Its findings will inform future planning of King Island shipping services. Terms of reference will be prepared for the inquiry with a completion date to be determined as part of that work.

Ms Forrest - That is a very good question to get answered. Finally. Thank you, Leader.

Support for Historic Heritage Properties

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

[2.52 p.m.]

With the plethora of Tasmania's historic homes, for example the iconic Georgian building St Andrews Inn at Cleveland, my question is, what support in the way of funding is available for maintenance of these steeped-in-history buildings, to those owners who currently are custodians?

ANSWER

The state Government does not currently have a program with direct funding support for owners for the maintenance of historic heritage properties. Until recently, the property owners could access the Heritage Places Renewal Loan Scheme within the Business Growth Loan Scheme administered by the Department of State Growth. However, this fund is currently oversubscribed and new applications are not being accepted at present. The Australian Government is currently offering grants for heritage buildings maintenance, with these being targeted at national and World Heritage listed properties. Heritage Tasmania does provide a free works application advisory service to the owners of property listed on the Tasmanian Heritage Register. The St Andrews Inn is listed on the Tasmanian Heritage Register. I am advised that some local governments also offer heritage building maintenance grants from time to time.

State of the Environment Reporting Forum

Ms WEBB question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.54 p.m.]

Noting there is a National State of the Environment Reporting Forum, which brings together representatives from federal, state, and territory governments, as well as the New Zealand government, to share knowledge and progress on respective state of the environment reports with the key objective being to promote the forum as the foundation of sound information management and leadership in environmental reporting in Australia, can the Government confirm:

(1) since the inception of the National State of the Environment Reporting Forum in 2010, how many of its twice-yearly meetings have been attended by a representative of the Tasmanian government;

(2) will the Tasmanian Government be represented at the next meeting of the forum scheduled to take place virtually on Monday 13 February 2023, and if so, who will be the Tasmanian representative?

ANSWER

(1) Advice from the Tasmanian Planning Commission indicates that Tasmania was represented at the National State of the Environment Reporting Forums in March 2019 and April 2020.

(2) The Executive Commissioner of the Tasmanian Planning Commission or their representative will attend the February 2023 forum.

Tasmanian Salmon Industry - Release of Draft Plan

Ms LOVELL question to MINISTER for PRIMARY INDUSTRIES and WATER, Ms PALMER

[2.55 p.m.]

Minister, this morning you released the draft Tasmanian salmon industry plan and at the same time released the draft work plan for the industry. Do you agree that the work plan should be informed by the industry plan? If so, why have they been released on the same day?

ANSWER

I thank the member for the question. I think I understand the question so I think this is the answer to the question. The draft work plan sets out the high-level actions with details of the specifics to be worked through, through ongoing consultation with industry and with the community. Some are statutory or regulatory obligations that must be implemented and others are commitments that were made through the Government's response to the Legislative Council's finfish inquiry.

Tasmanian Salmon Industry - Consultation Period For Plan

Ms WEBB question to MINISTER for PRIMARY INDUSTRIES and WATER, Ms PALMER

[2.58 p.m.]

In relation to the draft salmon plan released today, noting it is 23 November and consultation is open until 20 January, what period of time does the minister consider this to be as a consultation period? On paper it is two months but we know it is covering Christmas, New Year, people's holidays, parenting responsibilities and community groups not meeting across December and January. What period of time are you considering this consultation covers in reality for people to make submissions to that draft plan? What is your explanation for this being an appropriate time to be consulting on a document so significant and of such interest to the community?

ANSWER

For a usual consultation period, you are looking at five to six weeks. That is a common range, but because it goes over that Christmas period, we have extended it out to the eight weeks. It is important to remember that this has already been through one complete stage of public consultation with the discussion paper, so there has already been a first and very solid step in public consultation. I am very comfortable with eight weeks for public consultation. We have done a good job of taking into account that Christmas period. That is why we have taken it out to eight weeks as opposed to what it could have been at five.

Granting of Permit for Management of Black Swans

Ms LOVELL question to MINISTER for PRIMARY INDUSTRIES and WATER, Ms PALMER

[3.00 p.m.]

Minister, in relation to the property protection permit for black swans in the Central Highlands, can you please advise on what basis the decision was made to grant that permit?

ANSWER

I am aware of the issue raised in relation to the management of a black swan population at London Lakes in Tasmania's Central Highlands. I am advised that a property protection permit was issued by the Department of Natural Resources and Environment Tasmania, NRE Tas, to take up to 200 black swans in the London Lakes area during the period 19 May 2022 to 18 May 2023.

This permit was granted to disperse a large concentration of several thousand swans from the water body, which they were fouling, thereby rendering it unusable as a trout habitat. Black swans are abundant, occurring on and near water bodies throughout Tasmania, with numbers often increasing in response to commercial activities such as building irrigation dams and growing agricultural crops and pastures. I am further advised that recent waterbird surveys confirm that black swans continue to be widespread and locally abundant through central

Tasmania and that taking 200 individuals was not considered a threat to their regional population.

The permit holder has advised that about 70 birds have been taken using this permit. Annual monitoring of black swans since 1985 confirms the population to be widespread in Tasmania, with no evidence of long-term population decline. It is of note that during the final year of the Labor-Greens government, 57 crop protection permits were issued and more than 800 black swans were taken. Wildlife management is all about balance. I want to make it clear that the Government will always support farmers, foresters and land managers to sustainably manage browsing animal populations that are causing excessive damage to their crops, pastures and natural resources.

As we have previously outlined, there is a due process of assessment by NRE Tasmania in the issuing of crop protection permits to landholders. I have been informed that a number of reviews have been conducted into wildlife management over the years, including independent reviews of the department's long-running wildlife surveys and monitoring programs.

These reviews have validated the methodology used and have concluded that it is appropriate for the purpose it is used for. Regulations made under the Nature Conservation Act 2002 have also recently been reviewed and remade to reflect contemporary wildlife management and drafting standards. There are always learnings and improvements that can be made and I am always asking my department to continue to look into and review the current methodologies that inform wildlife management to ensure that they are not only appropriate for now, but to also ensure that they are balanced and sustainable management for the future.

Cessation of Soft Plastics Collection for Recycling

Mr VALENTINE question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[3.04 p.m.]

Given the current cessation by major supermarket chains of soft plastics collection for recycling, what action is the Government taking to avoid a reduction of impetus within the general community in such recycling endeavours? What progress is being made in the establishment of recycling facilities for such materials here in this state? Is there any time line for the implementation of any options developed?

Mr PRESIDENT - I advise members that question time has expired. I thought you were raising standing -

Mr VALENTINE - Oh, sorry.

Mr PRESIDENT - No, that is all right. If the Leader is happy to answer it we can allow the question because there was a long question during that process and there was time seeking advice. If you have the answer for the member for Hobart, and then he will get the call to table his document.

ANSWER

[3.06 p.m.]

This is an unfortunate situation and I understand that supermarkets are working to return access to soft plastic recycling as soon as possible. The Australian Government and all states, including Tasmania, are working with industry to find suitable solutions to avoid this resource simply going to landfill. A nationwide soft plastics industry taskforce will soon be identifying options to help manage collection, storage and processing activities over the short term until more dedicated recycling infrastructure has come online.

The Tasmanian Government is investing in plastics manufacturing development opportunities as part of a suite of initiatives aimed at building a circular economy within the state. The Government will soon be opening a second Recycling Modernisation Fund grant round with up to $1.26 million to co-invest with industry in plastic recycling. Applicants providing soft plastics processing will be encouraged to apply for this.

TABLED PAPER

Joint Standing Committee on Integrity Annual Report 2021-22

[3.07 p.m.]

Mr VALENTINE (Hobart) - Mr President, thank you for your indulgence. I have the honour to present the annual report of the Joint Standing Committee on Integrity for 2021-22. I seek leave to table the report.

Leave granted.

Mr VALENTINE (Hobart) - Mr President, I move -

That the report be received.

Report received.

Recognition of Visitors

Mr PRESIDENT - Before calling orders of the day, I welcome to the Chamber a group of students, Years 5 and 6 from Mole Creek Primary School, or as the former member for that area would have called it, Mole 'Crick'.

Welcome to the Legislative Council Chamber. We are about to go back into our orders of the day, and we are in the second reading stage of the Environmental Management and Pollution Control Amendment Bill, which will entertain you for some time.

Ms Rattray - Very important bill, Mr President.

Mr PRESIDENT - A very important bill.

Mole Creek, and every area in Tasmania, has a representative in the Legislative Council, and your division is called McIntyre, and the member for McIntyre is Ms Rattray, who has been the member for - how long?

Ms Rattray - Since 2017.

Mr PRESIDENT - A long time.

Ms Rattray - I have visited the school, Mr President. They do know me.

Mr PRESIDENT - They probably will visit again. I am sure all members will join me in making you feel very welcome in the Legislative Council Chamber.

Members - Hear, hear.

Ms Rattray - And my niece, Kirsty Holmberg, is their teacher.

Mr PRESIDENT - Very good.

ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL AMENDMENT BILL 2022 (No. 46)

Second Reading

Resumed from page 31.

[3.09 p.m.]

Ms WEBB (Nelson) - Before the break, I was speaking about the five-year, or about the 10-year review period for environmental standards and questioning the rationale for that, given there are five-year reviews in other legislation we have recently passed. I would appreciate a policy explanation from the Government for the 10-year review period for environmental standards in the bill. I am open to being provided with a clear rationale for that 10-year period, but I have also prepared amendments that would reduce the period between reviews to five years which I may bring through should we get to the Committee stage.

In addition to what looks like an unnecessarily long period between reviews of the environmental standards, I also consider it is hard to see why this review would occur behind closed doors - it seems - without involving consultation with the community or regulated industries. Perhaps it does? It is not specified in the legislation that has to occur.

It is also of concern that there does not appear to be clear and transparent criteria by which the minister considers whether to amend or revoke the environmental standards. I am wondering about the absence of those, and whether there would be such criteria somewhere - perhaps not in the legislation but elsewhere - so we could understand how, for example, the decision is made about whether to amend or revoke.

I do not consider it appropriate or desirable to cobble something in the form of an amendment, to try to insert that sort of thing into this bill, and I have not done so. There are some serious concerns about the omission of such evaluation criteria behind the decision-making, and I want to hear more about that from the Government to allay those

concerns. If such criteria are to be developed, putting them into the public domain in a different way might be something the Government would consider - not necessarily within the legislation - and if that is the case the Government could explain where that could be found at a later date.

I have another potential amendment that I may bring, should we get to the Committee stage, which also seeks to improve transparency and community confidence in line with the bill's intent. It is in relation to the technical standards which the bill proposes as the responsibility of the EPA director. While I have spoken about the decade-long period between environmental standards reviews being potentially too long, that is certainly better than none at all. It appears that the legislation does not provide for a review period legislated for technical standards. I do not see that in the bill; perhaps I could be pointed to where it might be?

I want an explanation from the Government as to why there is not a built-in review period that is legislated or mandated. If there is to be a review period, I want to understand what that would be and what the process would be. Depending on the information provided, that would help me understand whether I wish to move amendments if and when we get to the Committee stage. I would have thought that there are some natural synergies between the review periods for the technical standards and the environmental standards, and they should be linked together.

It must also be clear that a couple of those amendments that I mentioned, and which I may seek consideration of during the Committee stage, do not address all identified concerns and shortcomings of this bill. I do not believe it would be appropriate for me to cobble together amendments to try to meet those concerns, though I hold those concerns; it needs a more significant review and potentially a rewrite. I draw attention to recent commitments placed on the public record by Government regarding a more comprehensive review of the Environmental Management and Pollution Control Act 1994. Those statements on the public record include one from the minister from Tuesday 25 October 2022, where the minister said:

> As I have noted previously, the Government has flagged an intention to conduct a more comprehensive review of the principal act in due course.

He also said:

> We know our act, overall, needs some review, housekeeping and bringing up to date.

Further:

> My suggestion for them would be that the full review of the act provides the scope to do that at a point in the future.

Those sentiments appear to be in accordance with what we would have seen in the Tasmanian EDO's submission to the draft bill, as well as their latest correspondence of 7 November to all members in this place, which stresses that we consider and:

> … support EDO's recommendations for a thorough and independent review of the Environmental Management and Pollution Control Act 1994 to determine whether the act is consistent with best practice in modern environmental regulation.

Given the minister's recent reiteration, on the public record, of some future intent to undertake the requested review, I have a fairly specific question for the Leader. Can the Leader provide a firm commitment from the Government on two things:

(1) confirm that a comprehensive and fully consulted review of the Environmental Management and Pollution Control Act 1994 is to be undertaken within this term of Government;

(2) confirm whether such a future review will involve further consideration of the independence, purpose, structure and governance of the EPA, no matter the potential passage of this bill, this week, in this place?

I want to hear about those two things in relation to a broader review.

Mr President, it would be beneficial for our understanding of where and how this - as I have described it - relatively limited revamp of the EPA as set out in the bill before us fits within an overall, longer term legislative reform plan or reform plan that the Government has in this space.

I would also appreciate a description from the Government of where, under the changes proposed in the bill, and this new model for our EPA, are review matters? Who can appeal any EPA decision under this model? To whom can they appeal decisions? Where is that process documented? I seek clarity about how those mechanisms work under the new arrangements.

As I was looking at this bill, and then referring back to the principal act, I noted - and we have discussed this in relation to another bill today - that there is binary gender language in the principal act; a number of occasions where he/she is mentioned. It was pleasing to have the commitment from the Government earlier today, to potentially look at making it a matter of course that as we are considering amending primary legislation, we update -

Mrs HISCUTT - For clarity, I made a commitment that I would ask the Premier to have a look at it.

Ms WEBB - Put it to the Premier. Thank you. Indeed. That is as much as you can do, and we appreciated it. It seems a good idea that it becomes a matter of course as we are amending existing bills.

Ms Forrest - It could reduce the number of amendments that we put forward.

Ms WEBB - We have amended them in some legislation, but it is messy if we have to do it ourselves. It would be great to have it built into every process as it comes through.

Mr President, I acknowledge that the Government put this bill out for public consultation and 11 submissions were received. One of them was a comprehensive submission from the EDO, and I have referred to a number of matters raised in that submission. As we can see, from correspondence members would have received from them, they remain frustrated that some of their feedback does not appear to have been taken on board, although some minor changes were made in response to it.

It is worthwhile to have expert external input like that, and for us to continue to inform ourselves from those external sources. I know that the EDO locally has expertise from staff members who have worked in EPAs in the other jurisdictions, for example, so this was something of particular understanding for them.

To conclude, it is worth noting that the legal separation of the EPA from the department is a positive step forward towards full and effective independence. I consider there is still some distance to travel on that path. Further, there are some positive attributes to the bill before us which we can acknowledge as improvements on what had previously been in place.

However, it would be remiss of us to ignore the detailed and considered feedback from legal professionals who work in that space on a continual basis, as mentioned. The parameters set by the Government for this reform were fairly narrow and modest. While I do not agree with the setting of such a limited reform for something that is so long awaited and of such consequence for our state, so critically urgent given the pressures on our natural environment, I can but hope that this legislative confirmation of the legal separation of the EPA from the department is a harbinger of further, timely, comprehensive review and reform down the track.

On that, I note the bill, and am interested in further discussion should we get to the Committee stage.

SUSPENSION OF STANDING ORDERS

Extension of Sitting Times

[3.19 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I seek leave to move a motion without notice in relation to the suspension of sessional orders relating to the 4 p.m. break.

Ms Rattray - Not happy, really.

Leave granted.

[3.20 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I am happy to be led by your call after this, bearing in mind, members, that it is not my intention to work late, but it is my intention to see this bill through to fruition at one stage or another. I am happy if the answer is no. I thought I would try it.

Mr President, I move -

> That so much of sessional orders relating to the 4 p.m. break be suspended to enable the Council to sit beyond 4 p.m. for today's sitting.

Ms FORREST (Murchison) - As the Leader rightly says, it is up to the will of the House.

Mrs Hiscutt - It certainly is.

Ms FORREST - Yes, we have only just started this bill and I understand you do want to finish it. It is important, particularly if it is amended, that we have time to reconsider it before a third reading tomorrow. Can you give us an indication of the finish time you would anticipate?

Mrs Hiscutt - The member for Murchison's guess is as good as mine.

Ms FORREST - So it could be 8 or 9 p.m.?

Mrs Hiscutt - I would not think so.

Ms FORREST - Notionally, so we might need to.

Mrs Hiscutt - I would not think so, but if we need a dinner break we will have one.

Motion agreed to.

ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL AMENDMENT BILL 2022 (No. 46)

Second Reading

Resumed from page 48.

[3.21 p.m.]

Ms RATTRAY (McIntyre) - Mr President, I acknowledge the extensive contribution by the member for Nelson in regard to this bill. I, like others, received the advice or the submission from the Environmental Defenders Office and appreciated the opportunity to look over that. I also would like the Leader on behalf of the Government to address the concerns raised. A couple of those in that EDO submission were that they considered the bill does not provide the appropriate institutional arrangements to ensure that the EPA is fiercely fair, transparent and accountable - the 'environmental cop on the beat', their words, not mine. Then they suggested it is a missed opportunity to provide the best practice environmental regulator, which, given the expansion of the industries - and today we have heard that the salmon farming plan has been released - for the precious coasts and inland waterways is sorely needed to protect places in Tasmania.

It is a fair and reasonable request to have those issues responded to and when I sit down I am happy to provide - but you probably already have the notes. With such important legislation - and I acknowledge there is work in this area - I want those responses because that will direct and influence where I sit on this. The fact sheet and the way it has been outlined is reasonable when you read it, to think this bill does deliver what the Government has suggested on the requirement that:

> A requirement that the Minister's Statement of Expectation to the EPA Board further the objectives of the Environmental Management and Pollution Control Act 1994 (EMPCA);

It then talks about the requirement for the director of the EPA to act independently. That is exactly what we would expect, but within the scope of their functions and powers. The powers of the director to release that relevant monitoring data provided by EMPCA subject to the consideration of whether information relating to the business affairs of a person would be exempt within the meaning of the right to information.

What would constitute an exemption as such and how does the EPA find out if there has been a breach? For instance, there could be a TasWater breach. TasWater may have some sewage released they were not expecting. We have had significant rainfall events and that impacts on the operations of TasWater in various places around our state. Would there be an expectation that TasWater let the EPA know there has been a breach or does the EPA have someone on the ground monitoring where there have been breaches? Some understanding of how that works in practicality would be very useful because what we are trying to achieve here is make sure there are those avenues for breaches and certainly, that information and relevant monitoring data to be provided back into the community. Look at the impact breaches have on some of our waterways industries, and we have seen it a lot with the impact it has on the oyster industry when there is a TasWater breach. I am interested in how that works. I would appreciate if the Leader points me directly to where that is addressed in the amendment bill or if it goes back to the substantive act, then also, I am happy to take that on board.

The requirement for the minister to undertake public consultation when making, amending or revoking environmental standards - it is absolutely important there is that public consultation process. We need as much public input as we possibly can, because they will be the eyes and ears of some of these breaches. I doubt we will have EPA officers just wandering around monitoring after a significant weather event. If we have, that is certainly something that could be considered, but it is not always practical to have those things. We want to make sure that industries or operations that relate to industries around our state have that compliance obligation on reporting incidents.

I listened when the member for Nelson talked about the powers of the director to make technical standards and I acknowledge there is an amendment on the review process. Yes, so that is another important feature there. Yes, perhaps a 10-year time frame for a review does appear to be too long. I am considering supporting the amendment that talks about five years. I acknowledge the work the member for Nelson has done.

The requirement for the director to publish technical standards on the EPA website and make them available to the public in any other manner the minister considers appropriate. What other manner might that be? Do they put out a media release? How do they impart that information as they see fit?

Ms Forrest - As the director sees fit.

Ms RATTRAY - Sorry, in any other manner the minister considers appropriate.

Ms Forrest - However, you are talking about the director to publish? Yes.

Ms RATTRAY - Yes, the director to publish and make them available to the public in any other manner the minister considers appropriate, so what would that be? Also, the requirement for the director to publish a notice of any revocation or amendment of technical standards and the reason for taking those actions.

That is another component I did write down here from our briefings last week, which I very much appreciated. We always say those briefings are important. On the director publishing the technical standards on the EPA website, I wrote down; 'it provides the what and the why and the now'. That is something the community are very interested in. We know the regulations are to follow. There will be a watching brief on those regulations. I have recently spoken to a member of this House and talked about the fact the regulations that sit alongside legislation are the next step. They are the finishing step often in legislation and where the rubber hits the road, so it is an important aspect.

I acknowledge the work of the Environmental Defenders Office in providing such a comprehensive document to address the concerns that have been raised. Those two important aspects that I raised at the beginning of my contribution are key to the support or otherwise of this legislation, that the EPA is a fiercely fair, transparent and accountable environmental 'cop on the beat'.

Then, the reasons why the Government believes that this bill has not missed the opportunity to provide the best practice environmental regulator - which we know, our Tasmanian community expects.

With those comments on the public record, Mr President, and some responses to come when the Leader provides her second reading speech, I will listen with interest to other contributions and I thank members for their time and the opportunity.

[3.31 p.m.]

Ms LOVELL (Rumney) - Mr President, I make a contribution in support of the bill. As the Leader has outlined in her second reading, the bill achieves three things: furthering the independence of the EPA; providing improved public access to environmental monitoring information; and starting to modernise the environmental regulation of some of the state's major industries.

I appreciated the contribution of the member for Nelson, particularly on that first point - furthering the independence of the EPA - that perhaps this bill does not go as far as some people may have expected in the community.

When I first read the bill, I was surprised that it did not go as far as I had expected, based on statements by the minister, previous to seeing the bill. That is, perhaps, a bit of a missed opportunity -

Ms Rattray - Through you Mr President, that is exactly what the Environmental Defenders Office said: a missed opportunity.

Ms LOVELL - Yes. I consider it is a bit of a missed opportunity, but I suppose it comes down to a policy decision. The model we see in this bill is, perhaps, the decision of the minister, and the model that the Government has elected to go with might not be what could have been the best option. It might not be what the community necessarily expected. However, that is the model that we have been presented with, and that the Government has decided to go with. So, I have approached this bill based on that model.

We have a number of significant industries in Tasmania that have an unavoidable impact on the environment. There are a number of those that are spoken about quite frequently but

there are quite a few. There is always a tension between support for those industries and what they provide, particularly to regional and rural communities, in terms of jobs and stimulus to local economies. However, there is always a tension between supporting those industries and those local communities and protecting the environment.

I believe that the vast majority of Tasmanians understand that, and want us to find that balance. They do not want one or the other, or one at the expense of the other. They want us to try to find that balance as best we can.

The environment is hugely important to Tasmanians. It is important to those of us who live here, and enjoy living in a beautiful place, and living in an environment that we can take part in during our leisure time - certainly, for those who work in those parts of Tasmania. It is also an important feature of our tourism industry which we know is a big contributor to the economy. So, it is something that we need to take care of and protect.

The important features of environmental management are transparency, clarity and independence. We need to make sure that the processes and the decisions that are being made are transparent; that people understand them; and that people know why those decisions have been made and what it means for them.

We need a level of independence, because the environment is important enough to Tasmanians that there should be a level of regulation that is free of interference from any government at any stage, or any minister.

I consider this bill makes a number of improvements in these key areas. While it might not go as far as it could have, there are improvements that we should be happy to support.

I want to note, though, that it will be critical that the EPA is adequately resourced and funded to be able to fulfil its role. In the past, that that has not necessarily been the case. I put on record that if the Government is expecting the EPA to change the way it is doing things and to take on these different processes, then we need to ensure that the EPA is adequately funded to be able to do what we are asking it to do.

In terms of consultation, I note that there was not a huge number of submissions to the draft bill; only about 11 in total. That can sometimes be a bit of a red flag for me. If there are so few submissions, what happened in terms of the consultation; was the consultation period enough, was it advertised enough? I had a look and I do not see any of those submissions raising any concern around the consultation period or the notice they had. I have not heard that from others. Perhaps it is just the people who were particularly interested in this bill and wanted to have a say. Across those submissions, I note that there is broad support for greater independence of the EPA.

I note there is broad support for the improvements in transparency that this bill achieves. However, there are some concerns and some questions about the type of information that might be made publicly available through these new processes. There is a particular concern, if we are making information available that might not have been made available in the past, with how that information might be interpreted; and is that going to cause unnecessary alarm in some cases to members of the public who might be seeing information that they have not been exposed to before, in how they interpret that?

My question for the Leader is, what information might be made available to the public? What is the process for that? Will this include information that is not currently publicly available or available through an RTI request? We have our RTI process to ensure we are releasing information that should be released, and not releasing information that should not be, and ensuring that those processes align.

I note that clause 6 of the bill changes the requirement for a ministerial statement of expectation from every two years to every five years, which is a not insignificant change; however, I also note and have had confirmed in briefings that the statement can be reviewed and amended if required more frequently. I am comfortable with that.

It is important to understand the difference between environmental and technical standards, and this is where that question of independence comes in, with the responsibility for environmental standards staying with the minister. Environmental standards are those overarching, industry-wide sort of standards or expectations. Having said that, whilst that responsibility is staying with the minister, I understand that the bill requires a six-week public consultation period. It requires the minister to consult with the director of the EPA and the secretary of the department, and those environmental standards will be tabled in parliament and are disallowable through our normal processes. That provides a level of comfort.

The review period of 10 years for environmental standards is a long period of time. I understand there is a potential amendment. I will be listening to the explanation from the Leader and then, if an amendment is moved, I will be listening carefully to that argument. I note that those standards can be reviewed or amended or revoked more frequently, as required. It would be helpful to have a better understanding of that process, and to be reassured by that time frame.

The EPA will be responsible for setting technical standards independent of the minister, but I understand that the technical standards are really about how licence-holders and industry will meet the environmental standards that are still set by the minister. I guess that comes back to the question of independence.

As I said in summary, it is important that as a state we find ways to best balance how we support those critical industries that do have an unavoidable impact on the environment. How best do we find a way to balance support for those industries and at the same time not unnecessarily cause harm to the environment, and how best do we protect our environment? That is equally as important to Tasmanians and it is incumbent on us to try to find that balance as best we can. I support the bill and will be listening on those issues to see where we go with those.

[3.40 p.m.]

Ms FORREST (Murchison) - In speaking to this bill I will start with the Leader's closing comments, that it is important that Tasmanian industries have certainty about their operating conditions. It is also important that the public have confidence in the EPA's role as an independent regulator and manager of environmental monitoring information. Yes, certainty is important so people know what they can and cannot do but public confidence is also important.

This bill is part of the process, allegedly, of making a truly independent EPA, Environment Protection Agency, to ensure that we do protect our environment and monitor it

and we are able to do so in a frank and fearless manner. When we come to the independence of the EPA, that is the key question here. Is it truly independent and what may interfere with that? When I have approached this question with regard to this bill or any legislation or any other mechanisms that have been brought in to give effect to this important separation, notionally giving full independence of the EPA, that is the question.

I thank the Leader for organising the briefing much earlier than the day we are debating this bill. It has been helpful to have some more time after having the briefing to go back and revisit and think, is this achieving what it has set out to do? I note it is the intention of this particular bill, again an amendment bill, to further the independence of the state's Environment Protection Authority. I know the member for Nelson in her contribution and others have mentioned that it could have gone further. That may well be the case.

My questions about this bill now are, how can I be assured that it is going to be independent and transparent in its operations? I have a few questions on some of those aspects. I note from the Leader's second reading that independent and robust environmental assessment and regulation is an essential part of Tasmania's planning and approval system through the Resource Management and Planning System. It comes back to that comment about needing to have some certainty about what you can and cannot do. It is right that people should be able to have a clear expectation of what can and cannot be done.

There may be some things that cannot be done and we should not allow them to be done. We should stop them at the first hurdle. This is even more so now that we have seen the recent flood events around the country, not just here, but around the country. There may be things we simply cannot do that we thought we may have once have been able to and we should make it clear to people. We should not be leading people on to say well, maybe we might be able to find a way to build in certain areas or whatever it is.

We need to be upfront and honest about this. There are things that have to change. We debated a lot of this with the Climate Change bill recently.

As the Leader said, and others have mentioned, the intention of this bill is to improve transparency and allow public scrutiny of important information about environmental effects of industries operating in Tasmania's environment and furthering public confidence. Another new standard that will be developed, the environmental standard, will be a new statutory instrument that will be disallowable in parliament. It will be tabled in parliament and the way I read it, it is subject to disallowance, but it does not require an affirmative motion, unlike another thing we had to deal with recently. I am pretty sure that is the case and I seek clarity so that we are clear on that. It will sit on the Notice Paper, and if it is not disallowed, it continues to have effect. It does not require a positive affirming motion to give effect to it.

The other point that I raised in the briefing, and it seems pretty clear from the evidence that we received then and my further looking at this in the context of the Acts Interpretation Act, that whilst it is a rule like a by-law, it is not subject to the scrutiny of the Subordinate Legislation Committee. So, it would be up to the parliament to identify if there is a concern or issue with an environmental standard once tabled.

The critical part relates to the transparency and the ability and integrity of the EPA and the capacity to operate in a fully independent manner and undertake the work it needs to do. This is either holding industries to account or providing advice and then publishing - I will

come to that matter about publishing the information that they hold - and the office of the EPA and the director need to have adequate resources to do it. I have a couple of questions on this: how is the budget set? Does the EPA and the director thus have to put in their budget submission? I assume they do. I am asking questions I think I know the answer to, but I am asking if that is the process, the director puts in their own budget submission and that is considered along with all other budget submissions?

Will the director have another body they can go to if they feel that it is simply not adequate to undertake their role in a fully open and transparent manner? That they have adequate resources, they have the appropriate IT systems, they have all of that and it is adequately funded. I know that, for example, the Public Accounts Committee have a statement of understanding with the Tasmanian Audit Office and in that statement of understanding is an agreement that we will consider the budget submission of the Audit Office and that will be provided to the Treasurer the same day it will be provided to the budget submission process. Then the Public Accounts Committee, or any member of this place during budget scrutiny, can advocate for additional resources and funding.

So, you have a committee making sure that the office has adequate resourcing. I do not believe there is a separate process that would facilitate that. My question is, if the EPA and the director felt they were under-resourced, would they be able to go to the parliament and through a committee, say 'We need more funding. We cannot do our job'? It is one thing having the money; the second thing is getting the people to do the job, which is a challenge at the moment in a whole range of areas. How do we ensure that the EPA's voice is heard and the director's voice is heard in this?

The question that follows from that then, is: will the EPA director front up to budget Estimates on their own, not with the minister, but like the Auditor-General does? When the Auditor-General appears before the Estimates committee, he appears on his own, without the minister there. The Treasurer goes off and has a nice little extended lunchbreak and that is entirely appropriate. He is an independent. The TAO is an independent statutory office, as the EPA should be.

So, at budget Estimates time, when we scrutinise the budget related to the EPA, will that be the process? It is a crucial question, because if it is not and they are sitting there with the minister over their shoulder, you are not necessarily going to -

Ms Webb - It does not look very independent, does it?

Ms FORREST - Well, it is not independent, is it? It is a furphy if that is how it is going to happen. I have asked this question in the past and I have yet to get a satisfactory answer, so I am hoping the Leader can provide me with a satisfactory answer in that I actually get an answer, but also that it does indicate true independence. Otherwise, it is a furphy.

As I said, I would come to the release of monitoring information. This is where you instil public confidence, when information is freely available and accessible. I accept there needs to be some consideration of public interest in all of this and of commercially sensitive information, but much of what should be provided to and from the EPA is of public interest. This includes examples such as those we have seen in the past of video footage of the seabed under finfish pens. It was not freely available, you could not see it.

The finfish inquiry had the opportunity to view some of this but it was done in confidence, in private and that was respected. For the life of me, I still cannot see why that should be hidden information. If that is the reality of what is happening on the seabed in Macquarie Harbour - or was at that particular time - then surely, we have a right to know. This is our environment. It does not belong to the finfish farmers. It does not belong to the Government. It does not belong to any individual or other company. It belongs to the people of Tasmania and we have a right to know. That is why we need a fully independent EPA that can publish that. It was not the case in the past and this does need to change.

The Leader said in her second reading speech, and as was discussed in the briefing, the bill includes an important safeguard. We are directed to consider whether any relevant information regarding the business affairs of a person will be exempt within the meaning of the Right to Information Act 2009. This is important because it ensures consistency between the Right to Information Act and the act amended by this bill. Exemptions include matters such as business affairs of a third party, disclosure of personal information and information obtained in confidence. That is fine, for an RTI.

I asked at the briefing and did not get a satisfactory response from the current director, as to whether he would seek to apply the same standard to a question in the parliament, or a parliamentary committee. For those who seem to fail to understand this in various departments, the parliament and parliamentary committees are not subject to the RTI act. If anyone is not sure they can read the production of documents committee report. It is all there. The parliament or the parliamentary committees should not have to beg or issue a summons to access information held by a government department, or an independent statutory officer, to inform our work. If it is of a sensitive nature, it can be provided to the parliamentary committee or the parliament in confidence. That is how it should happen. It is not that we run the RTI lens over it and say well we would not release this under RTI, so we will not give it to this parliamentary committee. That is not acceptable. Never has been and never will be, but it has been used time and again. Seriously, Mr President, I am quite over that.

In recent times we have had more success from this Government in getting information. With the Public Accounts Committee, we have been able to - after some wrangling of ministers or treasurers - get information in confidence. That is fine, as it helps inform the committee. The committee will treat that information in confidence and, as Chair of that committee, I take every opportunity to remind members of that obligation, particularly new members. We do have a revolving door of members from the other place - not here, we are very stable in our place.

It is very important members understand their obligations in terms of the confidentiality of information that a committee receives. However, it bothered me I could not get a straight and clear answer in our briefing from the EPA director as to this matter. I am hoping the Leader can give a straight and clear answer to my question: will parliamentary committees and parliament, under the approach the EPA director takes, not apply the RTI lens to information that is provided? It is quite fine to apply it to requests from members of the public, or a request from me as a member of the public, but not as a parliamentary committee or through my parliamentary role in this place. If I am the member for Murchison, I expect them to apply that lens. That is how it works, but not if I am asking for it as a member of a parliamentary committee or in my role in this place. That is the question I seek further clarity on, because it certainly was not clear in the briefing.

As mentioned by the members, and spoken at length at by the member for Nelson on the environmental standards, I was not aware the new 10-year plan has been released today. I have not had a chance to look at it yet. I will be interested to have a look at that. This is the area for which the first environmental standard will be prepared. It is important we get this legislation done so it can happen. At least it is here before the end of the year and we are dealing with it today.

It is an important area. It is an area that has caused environmental harm in the past. I was listening to Radio National the other morning, where off the island of Canada they have stopped finfish farming in an area where the wild salmon are being impacted, particularly in their journey up for breeding. We need to be sure our salmon plan, acknowledging it can play an important part in our economy, is not at the cost of other industries or our environment.

We do need to have very clear, robust and effective standards on the operations of that industry. Particularly where there are other fishing industries such as commercial and other fisheries. It would need to co-exist with them unless you bring it on land. If we bring it on land, it will not be in Tasmania. Unless, we can do something significant with our energy cost, which is the challenge for the Government. Maybe they could keep our energy on island and use it to support the salmon industry on-land and not send it all across to the mainland. Anyway, that is a separate argument, but we need to think a little bit more broadly.

Here to help. You could use it for on-island development, keep the power prices down, and avoid them going to the markets. If they do on-island, on-land salmon growing, it will be close to the major markets, not here in Tasmania. Anyway. That is all part of any environmental standard of how we manage all these things.

In broad terms, they are the key concerns I have on seeing this progress. It is important it progresses and in a timely manner. However, those matters I have raised are important to the progress of this bill. Making it really clear on the full independence of the Environment Protection Authority and the director and the director's role, and how they will be sure they can get the funding and resources needed to actually fulfil their role. Not just chasing their tail all the time to try to keep up with some of the industry expansion or growth and have the capacity to respond promptly to environmental hazards.

The member for McIntyre talked about the major weather events, and how you can see significant environmental damage occur in a broad range across an area or across the state. You cannot expect to have people just waiting around in case something like that happens. However, there does need to be some redundancy and have capacity within the EPA to ensure they can respond in a timely manner to significant concerns.

When you have something like a tyre fire, perhaps, in an old mine site on the west coast, you need someone who can look, assess and respond appropriately in a prompt manner. We do need that capacity for the EPA to be able to deliver the services right around the state. We are not stopping, I know.

I welcome the legislation, in terms of the intent of it. It is important that we progress this, but I need to be assured of some of those matters. I also look forward to the response to a number of the matters raised by the member for Nelson as well.

[4.00 p.m.]

Mr VALENTINE (Hobart) - I rise to note the comments of other members, and some very important matters have been raised with this particular bill. I also want to emphasise the importance of the role that the EPA plays as a body, and that the director plays in making sure that we are able to see industry in this state operate within reasonable environmental parameters. Somebody has to be the watchdog on that.

If we want to maintain our status as a tourism state, there is no question about it in my mind, the EPA will play just as vital a role there as those who try to bring people to this state.

Some of the matters that have been raised by the likes of the Environmental Defenders Office are really pertinent and the member for Nelson has covered a lot, and the member for Murchison has talked about certain aspects.

We need to get it right. We need to get it right for the people of Tasmania. We need to get it right for our children, and our children's children. We want to be able to make sure that this state has a good future.

If we allow, shall I say, operations of various industries and individuals to be slack in the way they are handling products, things that might actually pollute the environment, the way industry uses our rivers and streams, our land and our waterways, it is important that we have good, strong legislation that can limit damage to our state.

Some of the matters that were brought up by the Environmental Defenders Office, the fact that they were saying it is a missed opportunity, but that statement, the member for McIntyre read it as well, a fiercely fair, transparent and accountable environmental cop on the beat. That is the way the Environmental Defenders Office termed it.

You can say, well it is their job. They are out there to champion the ultimate. Well, no, they are there to assist us in our thinking to look at the overall impact of industry in our state, and how legislation needs to be crafted to be able to allow organisations like this to keep them honest. Simple as that.

We do not want to see protests all the time. People do not like, I do not like, to see protests happening all the time. It is a symptom of a divided community, and I have been around a long time, 72 years now. You get sick of seeing protests all the time, but you can understand why people protest, because they want to see their environment protected.

The finfish inquiry took almost three years, very significant submissions. They were not necessarily people who were zealots. They were people in the street who were representing their particular opinions on matters associated with the finfish industry. They were people who are used to going out and using the waterways recreationally for enjoyment, and being confronted with all sorts of environmental issues. They were keen to present to us because they wanted to be heard. As much as they want to be heard, the need to have the comfort - and the community needs to have the comfort - that there is somebody there doing the job in backing them up when they alert authorities to problems and issues. They want to know that they are not there having to fight that themselves.

When we do the Public Works Committee projects, often you have statements about Aboriginal heritage and those sorts of things. They might find out later that some of their

heritage might have been disturbed and affected. Then they say - it is almost like it is expected that they have to speak out first before we take the steps to make sure that their heritage is not disturbed and is not affected or impacted by developments. It should not be for them to have to speak out. The Government as a whole should be aware of their circumstances, what it is that needs protecting and do it for them.

It is no different with this when it comes to the EPA. They are the environmental watchdog. They are there to do the best they can, or they should be there to do the best they can for the whole community. It is not a matter of balance; it is a matter of this is the bottom line and if you cross it you will end up paying for that particular incident if you have caused an issue.

It needs to be a strong bill. There is nothing in here that needs to be taken out but I think it needs strengthening. There are some amendments to come and I will listen to the member for Nelson as she prosecutes those. Let us make no mistake, it is an important organisation. It is an important role. It needs to be as independent from government as possible to be able to perform that role and it needs to be seen to be independent, making sure that they are not hampered either by a lack of resources or through a statement of expectation that tends to limit what they may be able to pay attention to. I hope that is not the case. I would not want to see that.

I will listen to further debate. I have found it interesting to hear the offerings of other members, as I always do. I thank the Environmental Defenders Office for their submission. It is a full submission and they do point up some interesting things like the lack of clear and transparent criteria for decisions by the EPA board and director, such as requiring their decisions to be based on the best available science and lutruwita/Tasmania's soon to be legislated greenhouse gas emissions targets that set the base resilience plans developed under the Climate Change (State Action) Act 2008.

You would say, where is the harm in seeing that in legislation? We set the rules here. I know some of us were not happy with what we set. It did not go far enough. However, if that law is there, then let us put that up-front and see that more clearly stated through criteria and the like, for decisions. I hope that this body, and this legislation, is improved over time so that we have an organisation that is here for the benefit of Tasmania as a location and as an environment and, at the end of the day, is there to protect it for us, and for future generations to follow.

[4.11 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have pages of answers which are way longer than the second reading speech. We will work our way through it.

The member for Nelson made some comments relating to the independence of the EPA. It is very important to remember that the EPA, the director, and the board, have always been independent from government. The board and the director cannot be influenced by government in their decision-making. The creation of the EPA as a state authority, separate from the department, was important for the structural independence of the EPA - separate from the department responsible for aquaculture management, for example. This is confirmed in this bill, removing references to the secretary. In addition, the EPA has its own budget, and is no longer under the control of the department's budget. The CEO has full legal responsibility

under the State Service Act, the Financial Management Act, and the Work Health and Safety Act. The EPA is subject to independent audit by the Tasmanian Audit Office. The CEO is a head of agency, and must comply with section 8 of the State Service Act. There is not a power in the State Service Act for the Premier to transfer the head of the EPA to another role. This bill seeks to achieve certainty and clarity regarding the independent role of the EPA.

With regard to questions relating to the scope of the bill, the minister made a commitment during debate in the other place that the Government will complete a comprehensive review of the Environmental Management and Pollution Control Act (EMPCA).

The policy intent of this amendment bill is to confirm and clarify the independent role of the EPA; increase transparency by allowing the director to release monitoring information; and increase certainty and consistency by allowing the minister to make environmental standards. These are amendments that the Government considers need to be done and that cannot wait for the full review of EMPCA.

Comments made in relation to consideration of the environmental justice framework, and the role of the EPA on matters relating to climate change, will be considered through this comprehensive review. In addition, it is a requirement that statutory instruments - for example, an environmental standard - must be consistent with other legislation - for example, the Climate Change act. However, I note that the statement of expectation points to both the Climate Change act and Action Plan and requires the board to take these into account. The process for review will be thoroughly planned and there will be opportunity for public consultation.

The member for Nelson also asked, where in the act does it require the director and the board to protect the environment and public health? Section 14 of the act requires the board, which includes the director, to use its best endeavours to further the objectives of the act. The objectives clearly include protection of the environment and public health.

Another question was, what consideration was given to a model that less involved the minister, for example, through the statement of expectations, and the creation of environmental standards?

The role of the statement of expectations is to provide the board with any context in which the minister believes the board should approach its decision-making - for example, bringing the board's attention to the Climate Change Action Plan, our waste strategy, and other general government policies such as social inclusion and women on boards. Importantly, the statement of expectation cannot set aside the provisions of the Environmental Management and Pollution Control Act, or the legal responsibilities of the board or the director. This is clearly laid out in section 15A of the act.

The act does not provide a role, or any accountability, between the board or the director and the minister beyond the statement of expectations; hence its independence from the government. The Government considered it appropriate to retain this requirement. In terms of the environmental standards it is entirely appropriate, and it should be the role of government to determine what is appropriate in an environmental management context in Tasmania.

Importantly, environmental standards must be consistent with the objectives of the Environmental Management and Pollution Control System and the objectives of the Resource Management and Planning System of Tasmania. There is also substantial public consultation

proposed during the development of the environmental standards, as well as parliamentary scrutiny, given they are a disallowable instrument. In addition, the technical standards provide the director with the power of discretion to develop a process to best apply an environmental standard, in a contemporary manner and in accordance with best practice for environmental management.

The member for Nelson also asked why the Government chose the EPA be created as a state authority. The objective was to separate -

Ms Webb - No, that is not what I asked; but provide the answer anyway, if you like.

Mrs HISCUTT - The objective was to separate the EPA from the department at the earliest opportunity, in line with the Government's announcement and with the least administrative burden, and a state authority was considered the most appropriate management. Importantly, this arrangement will be considered as part of the comprehensive review of the act, alluded to earlier.

Ms Webb - That was not my question. I will speak slower next time so you can get the questions down correctly.

Mrs HISCUTT - We talked about other submissions, and I note that the member for Nelson also raised the EDO submission on a number of occasions during her contribution. I want to clarify that a number of other submissions were received during the public consultation process. Submissions were received from aquaculture and other industry, and private individuals. The EPA was also consulted as part of the drafting process.

Is the process of the appointment of director, similar to other independent roles? The director is a member of the board and therefore it would not be appropriate for the board to appoint the director. In addition, I am advised that the Chief Commissioner of the Integrity Commission and the Auditor-General are both appointed by the Governor, and they are State Service employees.

There was also a question about conflict of interest and how it is managed in relation to the director. I am advised that potential for conflict of interest is managed in a number of ways. Firstly, a register of known interests is provided annually to the head of the State Service. Secondly, the EPA board maintains a register of interests. This is reviewed at each meeting for board matters and the director's potential interests are included. Thirdly, the EPA has policies on its website about some of these matters. Finally, as a State Service employee, the director is bound by the Code of Conduct and can be held accountable by the head of the State Service.

Why is the Government moving to a five-yearly statement of expectations? The bill provides for greater flexibility and streamlining of administrative process by allowing the minister to review the statement at any time during the five years, if required. The flexibility allows for the statement of expectations to be updated as needed. For example, if the Government was to enter into a new bilateral agreement with the Commonwealth, this would likely require an update of the statement of expectations.

Does the current statement of expectations remain in place? Even though the current statement of expectations was until 2020, that document remains current until a new statement of expectations is provided to the board.

Why is there is not any updated statement? Not wanting to pre-empt the decision of parliament, the Minister for Environment and Climate Change considered it appropriate to defer issuing of the revised statement of expectation. The bill proposes a change to the statement of expectation process, and therefore the minister intends to issue an updated, contemporary statement of expectation after the bill has passed, at the will of the House.

The member for Nelson also asserted that the list in new section 18A of the bill would be considered exhaustive.

Ms Webb - No, I did not.

Mrs HISCUTT - Somebody did. I will say 'a member', then. The list at new section 18A of this bill is not intended to be exhaustive. It provides clarification regarding the significant functions and powers of the director that are already within the principal act, and the fact that the director has complete discretion in applying those powers.

Ms Webb - I acknowledge the list was about independence of decision-making. Is there a separate list of the functions and powers for the director in the act, and I do not believe there is? That was the question I asked - beyond what was listed in 18A, which I did not say was exhaustive.

Mrs HISCUTT - I will seek some advice on that when I finish this. There were also questions asked regarding the proposed environmental standards to be reviewed every 10 years. A 10-yearly review is consistent with environmental regulations and environmental protection policies which are made under the act. Ten-year reviews provide certainty to the industry and the community - something they have been calling for for some time. This also provides for greater flexibility and streamlining of administrative processes.

Importantly, the minister will be able to review an environmental standard at any time, should there be sufficient reason to do so. As a matter of course, it is accepted government practice that any review of a significant statutory document such as an environmental standard, will include public consultation to ensure a full range of views are canvassed and considered by the minister.

Then there is a question here that covers off issues from the member for Murchison and the member for McIntyre. The member for Murchison asked this through briefings, and the member for McIntyre touched on it, regarding the release of information through the parliamentary scrutiny processes. I note this is outside the scope of the bill; however, the following advice has been sought in response to your question. I am advised a House of parliament or committee may order the production of information. Generally, committees will publish all evidence they receive. Exceptions are where witnesses give evidence in camera or when a committee orders evidence not to be published.

I am advised that if information is sought that a person thinks should remain confidential, the person should make the committee aware of that and request that such evidence not be

published. The committee will then make a determination on whether or not to publish the evidence, based upon the person's arguments.

There was a question on the consultation during the development of the environmental standards. As a matter of course, it is an accepted government process that the review of a significant statutory document such as an environmental standard, will include public consultation to ensure a full range of views are canvassed and considered by the minister.

There was a question seeking a commitment on the comprehensive review of the act. The member for Nelson may have one of the people asking for that. Yes, it is the Government's intention to complete this review within this term of Government. That will be informed by thorough public consultation.

Ms Webb - The other part of that question was, would it cover these things that we are legislating today? Will they still be up for consideration in that review?

Mrs HISCUTT - Everything will be on the table.

Another question was about who can appeal a decision of the director, and what is this process? If you are dissatisfied with how an issue, a report or a complaint has been handled by the EPA, a person may contact the Tasmanian Ombudsman, contact the Tasmanian Civil and Administrative Tribunal or contact the Environmental Defenders Office for assistance and advice on any action or seek independent legal advice. The EPA also has an administrative complaints handling policy and procedure that can be accessed.

Ms Webb - To clarify, in those appeal opportunities to the Ombudsman or TASCAT, can a decision be overturned by either of those entities? That was the question.

Mrs HISCUTT - The complaint can be handled by those.

Ms Webb - A complaint can be handled.

Mrs HISCUTT - An issue, a report, or a complaint.

Ms Webb - Does that mean they can reconsider and/or potentially overturn a decision? That is a crucial part of an appeal process I was asking about.

Mrs HISCUTT - Well TASCAT certainly can, can they not?

Additional information for the member for McIntyre. To support the separation of the EPA from the department, the Government is providing the EPA an additional $2.5 million per year, to support a robust environmental assessment and regulatory system.

The member for McIntyre, also. I am advised that major industries are required to report breaches of their licence conditions to the EPA. EPA officers also conduct site visits to assess compliance.

Member for Rumney. How will monitoring data be released? The type of information we are talking about relates to the environmental effects of an activity regulated by the EPA. It would typically include monitoring results, interpretation and condition reports, photographs,

videos and audio recordings. This is information that, through a licence, notice or permit condition is required to be provided to the EPA.

The intention is the director will also publish an explanation of the types of information that will be released and the administrative and decision-making processes for the release of such data. This will include information subject to routine disclosure and publication and other information that may be obtained by application to the director.

The EPA is already working on increasing the amount of information it releases to the public and the bill will allow more data to reach the public domain. Some industries have also been working co-operatively to actively release information.

Individual requests for release of monitoring information that has not been actively released, will be assessed by the director of the EPA. For example, relevant environmental performance and compliance information collected by the EPA will be made available on the EPA website.

For finfish facilities, the information will likely also be available on the Tasmanian Salmon Farming Data. The Salmon Portal website.

The member for Rumney also asked what will the process look like for relevant information.

The intention is to streamline the application assessment process for release of relevant information. The EPA will be responsible for ensuring release of information is consistent with the Right to Information Act. The EPA cannot release information exempt under the RTI act.

The intention is information released will be made available on the EPA's website. A business can go to the Ombudsman if not satisfied with the outcome. The decision of the Ombudsman would inform future decision-making. It is anticipated the EPA will routinely disclose standard monitoring information generated from licence or permit conditions.

It is also anticipated the director will develop and publish a process for releasing other types of relevant information, such as annual environmental reports, by means of active disclosure upon application or through the standard RTI process.

The member for Murchison asked about the implementation of funding. Does the EPA have adequate funding? How will they seek funding? The EPA will implement the changes to the legislation from its current funding. It is important our regulatory authorities have the resources and capacity to enforce laws, such as we are discussing here today.

We will remain committed to making sure our offices on the ground are properly able to do their job. If additional resources turn out to be required, then we will address that situation when it arises. The Government remains committed to providing the EPA with the funding it requires to fulfil its legislative responsibilities. I mentioned the amount of money they will be getting extra.

Ms Rattray - $2.5 million.

Mrs HISCUTT - In addition, yes, the director will lodge budget submissions in the director's own right through the minister.

For budget Estimates, at this stage, the intention is that the director would be present with the minister for Environment during budget Estimates. This is consistent with the arrangements for the Tasmanian Planning Commission, which is also an independent statutory authority. Budget Estimates are about ensuring the EPA is adequately budgeted. Therefore, it is appropriate the EPA sits with the minister at Estimates. They are still funded and accountable for that funding through the government. I have more information to seek for members.

I have some clarifying comments about the appointment of the director. Evidently, that was something I was advised was not quite clear. I need to clarify a point made earlier regarding the Chief Commissioner of the Integrity Commission and the Auditor-General. The advice I have is they can be state employees, but they themselves are not bound by the State Service Act in discharging their legal responsibilities. That will hopefully clear up that.

The member for McIntyre, there was a question you finished with that I have received the answer to. Why is there no review period in the bill for technical standards?

Ms Webb - That was my question you had not answered yet.

Mrs HISCUTT - Oh right, okay. Good.

Ms Forrest - Good to have it asked twice.

Mrs HISCUTT - Under proposed section 96Y(2) of the amendment bill, it is clear the director may amend a standard. In section 4 of the act, it makes it clear there will be best practice environmental management. In order to achieve best practice environmental management, the director will need to review, amend or revoke a technical standard if scientific methods, protocols, or data collection and management or monitoring changes sufficiently to require it.

In addition, I am informed the EPA director will develop and publish policies on the notification of affected parties when a technical standard is reviewed, amended or revoked.

Functions and powers. I hope this the one for the member for Nelson. There is not a separate list of director's functions and powers with the principal act. These functions and powers are contained in various provisions and the list given in the bill provides a summary. Nevertheless, it should be noted the director is a member of the board, and is therefore subject to the functions and powers of the board, in section 14 of the principal act.

I hope I have covered everything.

Ms Forrest - There is still the Committee stage, it is alright.

Mrs HISCUTT - I now commend the bill to the House.

Bill read the second time

ENVIRONMENTAL MANAGEMENT AND POLLUTION CONTROL AMENDMENT BILL 2022 (No. 46)

In Committee

[4.35 p.m.]

Madam CHAIR - Before we start, I will indicate to members that when we get to section 17 we will break those down by subclauses because there may be questions on many of those. I know the member for Nelson has amendments to a couple of those.

Clauses 1 to 3 agreed to.

Clauses 4 and 5 agreed to.

Clause 6 -
Section 15 amended (Ministerial statement of expectation)

Ms WEBB - Clause 6 is Ministerial statement of expectation, section 15 amended, and the questions I have on that clause were relating to 6(b), and then the subsection (2A), which says:

> The Minister must review a ministerial statement of expectation as soon as reasonably practicable after the end of the 5- year period after it was provided to the Board under subsection (1), …

And it says:

> … if the ministerial statement of expectation has not been reviewed, amended, or substituted, at any time within that period.

Does that mean that if an amendment has been made within that time period by the minister, for example, does that mean that the review does not have to occur after the five-year period? Does it then reset the clock from the time of amendment?

To clarify that entirely, could the minister make an amendment to the ministerial statement of expectation without having done a full review of it and therefore not having consulted on things? Could an amendment be made and then bump out the review further because an amendment has been made? That is the essence of my question.

Mrs HISCUTT - The answer is no. There is going to be a review every five years. It does not matter what happens.

Ms WEBB - It seems there is some confusing wording there then, because it says that -

> … if the ministerial statement of expectation has not been reviewed, amended, or substituted, at any time within that period.

That sounds like if any of those things has happened, potentially an amendment made or perhaps a substitution of a new one, that it does not occur. I am wondering about the clarity of

that language. Can we have it explained why that does not say the opposite of the answer you provided?

Mrs HISCUTT - I will seek some information while the brain trust discusses this.

It appears that after discussion, I am now advised that what the member for Nelson has ascertained from that is correct. It will reset.

Ms Webb - Right.

Mrs HISCUTT - My advice says now that your understanding of the clause is correct. If it is amended within the five-year period, it will be another five years before it is amended again.

Ms Webb - Or reviewed again, do you mean?

Mrs HISCUTT - Reviewed, amended, or substituted, but bearing in mind it can be amended or reviewed in any time, at any time.

Ms FORREST - While the member for Nelson thinks more about that -

Ms Webb - I only have one call left.

Ms FORREST - You have one more call left. That is why I thought I would pop in before you.

In dealing with this question, and it is a very fair question to have clarified, so I will have to traverse through other parts of the bill to give my understanding of how this is supposed to work and to be corrected. If I am right, clause 6 that we are in now, which says:

> (2A) The Minister must review a ministerial statement of expectation as soon as reasonably practicable after the end of the 5- year period after it was provided to the Board under subsection (1), if the ministerial statement of expectation has not been reviewed, amended, or substituted, at any time within that period.

So, if the statement of expectation is reviewed, amended, or substituted at any time, then the clock starts again. However, when we go to section 96R in clause 17, it says -

Ms Webb - What page?

Ms FORREST - Page 24-25. It says over there:

> (1) In this section -
>
> ***exhibition documents***, in relation to a draft of the environmental standards or a draft of an amendment or revocation of environmental standards, means -

(a) the draft of the environmental standards, draft amendment or revocation, as the case may be; and

(b) a statement as to the reasons why the Minister is proposing to -

(i) make environmental standards in the form of the draft of the environmental standards; or

(ii) make an amendment of environmental standards in the form of the draft of the amendment of environmental standards; or

(iii) revoke the relevant environmental standards;

I am trying to clarify here that if the minister seeks to amend an environmental standard, it may be a relatively small amendment, but if the minister seeks to amend that, then all the other provisions kick in. There has to be the exhibition period. There has to be the consultation. There has to be the exhibition of the documents related to the amendment. It requires a full assessment of the amendment when we are focusing on an amendment here, before it can be made.

To go back to clause 6, effectively the Leader has confirmed the member for Nelson's question that the clock restarts at an amendment. That would occur even with a minor amendment. The minor amendment would require the full review, the full exhibition, the full public consultation, the full kit and caboodle to ensure when an amendment was made it was fully consulted.

There are a series of questions I would like you to answer, Leader. Is that then tabled and subject to disallowance? The reason I ask is, if it is not the process and there is a relatively minor amendment, let us look at the finfish sector with a stocking density limit or some other matter like that which may be covered in minor amendment. I am not sure what is going to be covered in it. Something may change because environmental conditions change. You may have to reduce or increase a number on another matter, but you have to amend something to account for over that five-year period a change in our climate, a change in our environmental conditions. We do not know what the future holds, but we know if we do not act on climate change it is going to be pretty bad, so it may be there needs to be an amendment during that five-year period.

It may not be a massive amendment. It might be minor, but that would then say, okay, we have dealt with that little bit and we are now not going to review the whole of the standard for another five years. That is what the Leader is saying here. I do not think that is what is intended. I thought what was intended is the environmental standard that may require an amendment during that five-year period - that is not unreasonable - would then still enable a full review of the amended environmental standard after the five years. Otherwise, you could make minor amendments along the way every four years, three years and then the clock would

start again. It could be years and years before you have a full amendment, full review of the environmental standard.

I am sure that is not what would be intended. I am sure, I would hope the Government would want to undertake a full review of environmental standard every five years, even if there had been an amendment to it, unless it was a substantial amendment, in which case the full review would occur earlier.

It may be the wording that is confusing, because it says every five years a full review is done, unless it has not been reviewed, amended or substituted at any time within that period. Maybe it needs to be clarified that it has not had significant, has not been fully reviewed or has not been completely substituted. If it is completely substituted you have to go through the whole process and it is fair and reasonable the clock would start again, but to be amended, which may only be a small section of the standard, to think you would then restart the clock on that seems wrong.

Mr Valentine - It does.

Ms FORREST - That is what I am trying to ascertain. Was that the member for Nelson's claim?

Ms Webb - The time frame thing was concerning me but you have gone on a slightly different track because you have conflated the environmental standards with the ministerial statement of expectation. This is about the ministerial statement of expectation, not the environmental standards.

Ms FORREST - Sorry, it was too. You are right on that, but we do not know what is going to be in the ministerial statement of expectation.

Ms Webb - No, we do not. The review process is not laid out. My next questions were going to be then about the review process, because it is not anywhere in the principal or amendment bill.

Ms FORREST - Thanks for that clarification, member for Nelson. We have not seen what the ministerial statement of expectation is going to be, which is a bit sad in a way. I was going to make that point, because in a previous bill in relation to Homes Tasmania we did see a draft and it was helpful to see the extent of what sort of things the minister was going to be expecting Homes Tasmania to do.

We have not had anything here in terms of what that is likely to look like. I am sure it is under way and maybe it can be provided to the Committee, to the House? In any event, you could have a minor amendment and not review it for five years. Surely, ministerial statements of expectations are generally reviewed more regularly? Five years is a long period and from memory I thought a lot of them were reviewed after two years.

Ms Webb - That is the change being made, bumping it from two to five.

Ms FORREST - In most of the others we have seen - and not just with the EPA, but also with other entities, departments and GBEs - they are reviewed much more frequently. It does concern me we may be creating a problem that was not intended.

Mrs HISCUTT - Bearing in mind that the statement of expectations can be reviewed at any time, if you go back to the original bill, clause 15A, Contents of ministerial statement of expectation, it says:

> (1) The ministerial statement of expectation is to specify the objectives of the Minister on any matter relating to the functions of the Board.
>
> (2) The ministerial statement of expectation -
>
> (a) may not prevent the Board from performing a function it is required to perform or otherwise complying with any Act; and
>
> (b) may not extend the functions and powers of the Board.

The statement relates to the direction of the board and is nothing to do with technical. This is what 15A in the original bill says and is what we are talking about here. We are talking about the roles and functions of the board, performing the function, and not extending the functions and powers of the board.

Ms WEBB - My final call and I will try to be clear with some questions knowing I will not have a chance to follow them up afterwards. I understand the ministerial statement of expectation can be reviewed at any time, but what I am interested in now is what the process looks like for review of a ministerial statement of expectation. Where is the visibility with that? Is there any external involvement or consultation as part of that process? There does not seem to be any way specified in the legislation - either in the principal act or what we are doing with the amendment bill here - that says where that statement of expectation is made public - whether it is tabled in parliament, gazetted or on the website.

What I want to understand is that, given a ministerial statement of expectation is made which applies to the board and the director and needs to be taken into consideration, it is in place for a five-year period, may be reviewed or amended in the meantime and will be reviewed after five years. If, in the meantime, it has been amended and it pushes out the expected review time, how will people keep track of where we are in that cycle? As an external stakeholder or even as a parliamentarian looking to hold to account what is going on in this area, how will we have visibility on that cycle of review? How would we have an involvement in it? How will it be communicated to the public and parliament when new items are presented as either amending, revoking, renewing, reviewing - whatever is going on?

I have questions on the next section, which is about the contents of that statement of expectation. I will save those, but the review process is something we need to understand better here - especially given that it can be pushed out.

Mrs HISCUTT - Seeking some advice, Madam Chair.

Thank you, Madam Chair, we are talking about the ministerial statement of expectation, here.

There is no public consultation consistent with other ministers' statements of expectation. The minister must consult with the board before making a statement of expectation. The statement must be consistent with the objectives of the Environmental Management and

Pollution Control System objectives, and the statement is to be available to the public. The EPA website is usually the place you can find that.

Clause 6 agreed to.

Clause 7 -
Section 15A amended (Contents of ministerial statement of expectation)

[4.58 p.m.]

Ms WEBB - Moving on, and extending the same conversation, really. Clause 7 is about the contents of the ministerial statement of expectation and we are adding in details at this point.

Clause 7 requires that the ministerial statement of expectation:

> (aa) must further the objectives specified in Schedule 1; and

I am taking that to mean Part 1, Objectives of the Resource Management and Planning System of Tasmania; and Part 2, which is Objectives of the Environmental Management and Pollution Control System Established by this Act - both those parts. That is an extremely broad scope for what might be in the ministerial statement of expectation.

Clause 7(aab) says:

> (aab) must specify which of, and the manner in which, the objectives specified in Schedule 1 are being furthered by the ministerial statement of expectation; and

The last bit is that it must be consistent with functions and powers of the board.

I am interested in the specifying which of, and the manner in which, objectives specified in schedule 1, are being furthered. Highlighting particular aspects of the objectives here in schedule 1, as needing to be furthered by it - is that giving priority to certain of these objectives above the others? Does it give us a pecking order for which objectives are to be pursued more rigorously or at greater priority than others, if the ministerial statement of expectation presents certain of those as being its focus?

If, by being identified in the ministerial statement of expectations, certain of these objectives are given some manner of priority then, in the work of the EPA - noting it still must be consistent with the functions and powers of the board - does that in any way skew the work or focus of this independent EPA that we are now told we is being created through this bill?

If the direction provided through a ministerial statement of expectation does that to some extent, how is it congruent with our concept of an independent EPA? How can it be consistent to say, on the one hand, we have an independent EPA doing its job within all the things that are laid out in the principal act and in this amendment bill, and yet there is particular skew given through the ministerial statement of expectations? I want an explanation about that; and particularly how subclause 7(aab) works, specifying which of, and the manner in which, the objects specified in schedule 1 are being furthered. Does that amount to a prioritisation?

I note that some of the objectives are relating to things that are not simply about protecting the environment or the health of people. Some of those objectives are about very practical things and economic development, for example; and other sorts of priorities that we would not necessarily expect to see prioritised in the work of an EPA. That will be my first call. We will see how that goes.

Mrs HISCUTT - Subclause 7(aab) is to provide focus and clarity about what should be in the ministerial statement. You will note that the three sections there finish with 'and', 'and', 'and'; therefore there is no preference of one or the other. There is no pecking order. They all have to be taken into consideration.

Ms Webb - I am not talking about the pecking order there, I am talking about the pecking order here.

Mrs HISCUTT - A public statement of expectation provides a transparent means for the Minister for Environment and Climate Change to advise the independent EPA on the Government's environmental management objectives. The statement of expectation cannot set aside the provisions of the Environmental Management and Pollution Control Act or the legal responsibilities of the boards or the director. This is clearly laid out in section 15A of the act.

Ms WEBB - I thought I quite clearly asked a question about, does this ministerial statement of expectation - that has to specify which of and the manner in which the objectives in schedule 1 under these two parts, are being furthered by that ministerial statement of expectation - my specific question was, does that then give priority to any of these objectives if they are identified in the ministerial statement of expectation over the others that are there?

I have asked it a second time. I have had to use my second call to repeat a very clear question. I do not expect to have to repeat it on a third call.

I am going to add some more.

I am reiterating the question about congruence. How is a ministerial statement of expectation described here, like this, congruent with an independent entity that is the EPA? We have clear objectives laid out in schedule 1 for the operation of the EPA. We have a clear description in this legislation, the principal act, and what we are adding to it, about the responsibilities, the decision-making powers, and the independence of those decision-making powers of the EPA, and the board. We have tasks that have to be undertaken by the EPA.

From the Leader's answer a moment ago, I take it that the ministerial statement of expectation is to express government policy goals to the EPA. What role is there for government policy goals to be of influence or of meaningful direction to the EPA if it is an independent entity?

I want a clearer description about how the ministerial statement of expectation and the objectives it highlights influence the operations of what we expect to be an independent entity now under this act. What does it add? What will it change about the role and the functions of the EPA board and director or the way they undertake their role and functions? What will be changed by the ministerial statement of expectation?

Mrs HISCUTT - You have to bear in mind that this ministerial statement of expectation has to take into account other acts, such as the Climate Change act, and as I mentioned before, the Environmental Management and Pollution Control Act. It is more about having to comply with other acts as opposed to policies. I can read to you the current statement of expectation.

Ms Webb - I have it here. I do not need you to read it to me. I want my questions answered.

Mrs HISCUTT - It is there to provide more clarity, not to give priority. It has to comply with the acts that it has to comply with.

Ms Webb - You mentioned priority. I specifically asked and I would like a clear answer. Does something mentioned in the ministerial statement of expectation give it priority above other things here in the objectives? That was the question.

Mrs HISCUTT - No, everything is important in it. It provides clarity not priority.

Ms Webb - No, it does not is the answer. The second question I asked?

Mrs HISCUTT - It is the same answer.

Ms Webb - It was about what changes about the functions and responsibilities or how they are undertaken from the ministerial statement of expectation being given to them.

Madam CHAIR - Order.

Ms Webb - It was a clear question that I put to you.

Mrs HISCUTT - I will seek some advice. The intention is not that the objective referred to in the statement will be given a higher priority over other objectives. It provides clarity where necessary. For example, the waste management framework, growing the circular economy, relates to objectives to discuss matters relating to waste management and eliminating harm to the environment. We can provide further examples if necessary.

The ministerial statement of expectation does things like governance and operations. The minister will say, 'During this period I expect the board to continue to focus on good governance, transparency and accountability'. Then the minister goes on to say, 'I want the reporting done on a certain date, and then it goes into policies and processes, that the board should continue to routinely review their policies not the Government's policies.' And on it goes.

Ms Webb - Let us talk about government policy in there, Leader. I have it right here in front of me too.

Madam CHAIR - Order, order.

Ms WEBB - Yes, I have it right here too. We can read the whole thing. The interesting thing, now that we have been discussing it, it is fascinating to me what its function is, the ministerial statement of expectation. It comes back to the question I asked, which still has not been answered.

I will redirect this one now again. What function and effect does the ministerial statement of expectation have? How does it impact on what is done under this act by the board and the director or how they go about doing their functions and powers under this act?

As far as I can see, looking at the current statement of expectation, as you have alluded to, it runs through things. It basically runs through functions of the board, relations with the government, communications, paying attention to government policies and other legislation, governance and operations.

It says follow the act, and follow the governance principles that apply to you under the act. Basically, what we can boil it down to, tell me if I am wrong, it says, follow the act. A statement of intent comes back from the board of the EPA, to say, yes, we will, confirming they will.

What function does this statement of expectation have? If it did not exist, the board and the director, following the act, would be doing all these things anyway. What has been added in here is that requirement under (aab) to specify which of the objectives and the manner in which they are being furthered by the statement of expectation.

That would mean, if we looked at the current one, to fulfil that there would have to be some more explicit statements in here saying, 'this part links to schedule 1, part 1, objective XYZ'. That would be a link made. However, I do not see how it changes the effect of the document.

I want to understand, what is the actual effect of this document in practice on the responsibilities, the things and activities undertaken, how they are undertaken by the director or the board? I hope that is as clear as it can be because it is my last call, and potentially others might have been seeking more clarity on it too.

I do not know, but in terms of this, the only way I could see that there is something new and different added in by (aab) requiring that link being made to the objectives in schedule 1, is it making that link would somehow give those priority? You have confirmed to me that it is not the case. So more broadly then, what is its purpose and effect?

Mrs HISCUTT - The purpose of clause 7 is to provide further detail and clarity on what can be included in an SoE. The amendment ensures the SoE is consistent with other provisions of the act and must explain how it supports the intent of the act.

Ms Webb - I was not asking for clarity. It clearly was not about my question, which was about the statement of expectations not -

Madam CHAIR - Order, the Leader believes she has answered the question.

Ms Webb - It could not have been clearer.

Madam CHAIR - Order.

Mr VALENTINE - Explain why the state of expectation is needed as opposed to a simple statement in the act that says the EPA must follow the x act or y act. Why is there a necessity for the statement of expectation to exist if the EPA is an independent body? Why do

we need a statement of expectation, rather than a statement that says the EPA shall ensure their actions are to follow or uphold acts x, y and z?

Ms Webb - It says that in the act.

Mrs HISCUTT - For fear of repetition, a public statement of expectation provides a transparent means for the Minister for Environment and Climate Change to advise the independent EPA on the Government's environmental management objectives. It simply cannot go into the bill, because the needs and the demands of the community may change in the future, therefore there is a statement of expectation.

Clause 7 agreed to.

Clause 8 -
Section 18A inserted

[5.18 p.m.]

Ms WEBB - Clause 8 is on inserting 18A into the principal act, the independence of the director, which is an interesting concept now we have heard that ministerial statement of expectation is about directing the board and the director about the Government's objectives and priorities.

Mrs Hiscutt - As long as they comply with the acts.

Ms WEBB - If it is not to give priority to them, I do not know what it is. It still did not clarify anything about the function and how it would affect the operations.

Madam CHAIR - Order.

Ms Webb - The independence of the director outlined here in 18A which is being inserted. As far as I can ascertain, this is not different to the situation that currently exists in terms of the EPA director undertaking these activities under the act currently and being independent in that decision-making process. Can you clarify and confirm there is nothing different being done here than what is required and available to the EPA director now in terms of independence in decision making in those things laid in (2)(a) through to (2)(h)? I hope that is clear. How is it different, if it is different, to now?

For further clarity, because it was not entirely clear in the summing up speech in answer to the question I put in my second reading speech about this. There is nowhere in the primary act or in the amendment bill we are considering where there is a clearly articulated straightforward full list of the functions and powers of the director. Why is that so?

From your answer given in your summing up, saying it is scattered throughout the act, essentially, the functions and powers of the director. So, someone would have to exhaustively go through themselves to pick out every instance of functions and powers, whereas the board has its functions and powers laid out quite clearly in the principal act.

What is the rationale for not clearly articulating it in a straightforward list, like the board has? The functions and powers of the director. You do not need to tell me that the director is

a member of the board. I know, and so therefore, the functions and powers of the board apply to the director too, when the director is acting as a member of the board. Yes.

However, the director also has particular functions and powers, as director, and so why are they not listed somewhere separately, because in effect this list becomes a slightly quasi list of functions and powers but it is obviously, as we established, not an exhaustive one.

Mrs HISCUTT - With regard to your first question on 18A, it just provides clarity. There is no difference.

With regard to the function and powers of the director, evidently these functions and powers are woven throughout, as you said, the many parts of the bill, and it is not possible to go through and get that list, because it is woven throughout the act. So, it is all part of the act.

Clause 8 agreed to.

Clause 9 agreed to.

Clause 10 -
Section 23 amended (Trade secrets)

[5.22 p.m.]

Ms WEBB - I am trying to clarify for myself, Madam Chair, what my question was. This is clause 10, it relates to section 23 in the principal act, which is trade secrets, and amends that section by adding in a subsection (5). The section does not apply in relation to information under section 23AA(2) that is published and provided and made available for viewing by members of the public, or a person or body.

So that is information that is dealt with later in this act and over the page, in clause 11.

Can we have an explanation for why this section does not apply to the information under section 23AA(2)? Looking over the page, I am going to turn to where that is listed, which says:

> (2) The Director may -
>
> (a) publish any relevant information; or
>
> (b) provide relevant information to members of the public or a person or body; or
>
> (c) make relevant information available for viewing by members of the public or a person or body -
>
> in the manner and form that the Director thinks fit.

Why would this section 23 of the principal act not apply to that information that is being made available, given that this is clearly laying out how trade secrets are protected? So, if that applied to the information being made public, I would have thought that was a good thing, in terms of people who want to protect trade secrets.

I will see how we go with an answer, and follow up if I need to.

Mrs HISCUTT - It is the Government's view that the current powers to release environmental monitoring information could be clarified and strengthened, and that the application and assessment process could be clarified. They need to be updated to make it clear that the director can legally provide the public with relevant information collected by licence and permit holders.

The bill amends section 23 of the act to ensure that the director cannot be prosecuted for the release of relevant monitoring information. The protection for the release of information that is a trade secret provided by the existing section 23 remains unvaried by the proposed amendments. These changes will bring Tasmania in line with what is already happening in a number of other states.

Ms WEBB - So I can understand a little better, over here in 23AA(2), where it is talking about the director being able to publish relevant information, and the amendment we are talking about now, the clause we are talking about now, which is back amending section 23, the principal act, trade secrets.

Are we taking away the requirements there in section 23 about trade secrets with this information the director may publish under subsection (2) here? Because under subsection (4) of 23AA, we are applying the RTI test to the release of that information. In effect, are we replacing the protection provided, say, to business interests under section 23, Trade secrets, of the principal act, are we replacing that protection with the protection provided here in 23AA subsection (4), where the RTI test is now being applied to the director releasing relevant information the director may choose to release? Can you confirm whether, in effect, that is what is occurring here?

Mrs HISCUTT - I will see if there is more information to come, Madam Chair, but in the original act, section 23 talks about trade secrets, so this is fairly well eliminating section 23(4)(a) which says, 'with the consent of a person carrying on the undertaking or operating the equipment'.

This puts that responsibility onto the director. I dread to bring forward any examples, but if the director considers that it may be in the public interest to print something, or by mistake something happens - although I would not think that would happen - this protects the director from prosecution and he does not have to have permission from somebody to release that information.

Claude 10 agreed to.

Clause 11 -
Section 23AA inserted

[5.30 p.m.]

Ms WEBB - Section 23AA inserted. In a broad question on this, it is about release of information from the director. What does this empower the director to release that cannot be released now, under the model that we have had? I want to understand what difference this might make on a practical level to what is able to be released now. Does this change it or is it simply more explicit and essentially the same situation as now?

The second question is fairly specific. In subclause (c) at the bottom of page 11 where it says:

> is provided under this Act, or another prescribed Act, to the Board or the Director, otherwise than in accordance with a requirement imposed on a person under section 43 or section 92.

I want some explanation about those exceptions so that we can understand how that interplay works with section 43 and section 92. That is my second question, fairly specifically.

I am going to ask a third question relating to page 13, subclause (4) which talks about the RTI connection.

> (4) In determining whether to, under subsection (2), publish, provide, or make available for viewing by members of the public or a person or body, any relevant information, the Director must consider whether the information is information related to the business affairs of a person, other than a public authority, which, if it were information of a public authority, would be exempt information within the meaning of the *Right to Information Act 2009.*

We are applying the Right to Information Act in essence here and we know that under normal circumstances in the release of information through RTI there are ways to appeal decisions made. If information was sought and the director decided not to release information applying the RTI principles to that request, is there a way that that could be appealed and potentially overturned by another entity? Would that be the Ombudsman in the way that the Ombudsman functions as the appeal avenue for our RTI act?

Those are the three questions. Would you like me to run through them again for you?

Mrs HISCUTT - I think we have them all. I will seek some advice on question (2), that will be coming. Regarding question (1), this makes the powers that were unclear in the original act - this makes it clearer. It is being more specific on what can happen.

Ms Webb - It does not extend the powers?

Mrs HISCUTT - No, it makes it clearer because it was unclear in the original act. Regarding question (3), yes, you would have to go to the Ombudsman. The answer to question (2) is coming.

Madam CHAIR - For the answer, or are you waiting for something more?

Mrs HISCUTT - I am waiting for it to come.

Your second question was on section 92. That is about compliance, not releasing information. It is about certain officers, council officers, all that sort, going and collecting information.

Clause 23AA(1)(c) relates to two clauses in the principal act that allow the director to require information to be provided. Importantly, if information is not related through this process, the RTI process remains an option for seeking information. This is more about gathering information as opposed to releasing information.

Ms WEBB - To be clear on that though, what this is saying is this is part of the definition of what is relevant information under (c):

> ***relevant information*** means information that -
>
> …
>
> (c) is provided under this Act, or another prescribed Act, to the Board or the Director, otherwise than in accordance with a requirement imposed on a person under section 43 or section 92;

Relevant information, by definition, then flows in to what the director can choose to publish and make available to people.

What we are talking about there in (c) is that information that is collected under section 43, which is about the director can serve notice to require a person to provide information, it is saying that information acquired in that way under the power in section 43 of the principal act cannot then be relevant information that the director may choose to release. It is saying the same thing about information that is collected through section 92 of the principal act, which is about powers of authorised officers and council officers.

That section includes the power to collect information. It is saying that cannot be information, then, that the director may then choose to release. Why are we exempting information collected in those two ways under powers of authorised officers and council officers, or under the director serving notice to require information to be provided? Why is that exempted from what the director then could choose to publish as relevant information under subsection (2) here of this section? Why are we making exemptions to that?

The director is going to come into information through all manner of ways. Why are those two channels for information being collected, data, whatever it might be, not then able to be part of what the director can choose to release under their power?

Mrs HISCUTT - To start with, to work with the companies, you need them to hopefully release information, but this is where it could be subject to prosecution and court proceedings. That is why that is there.

Clause 11 agreed to.

Clauses 12 and 13 agreed to.

Clause 14 -
Section 39 amended (When environmental improvement programme required)

[5.41 p.m.]

Ms RATTRAY - Madam Chair, in regard to this particular clause, when I read this, it talks about when environmental improvement program required, and so in:

> (ab) it is not practicable for a person to comply with an environmental standards condition, an environmental standards offense …

That has the wrong spelling, I believe. O-f-f-e-n, should be c-e.

> provision, or a technical standard, with which the person is required to comply; or

Can I have some clarity around what that actually means? Because it is talking about an improvement program is required, but then it talks about it is not practicable for a person. It is obviously giving some an out there, is my reading of it. I want some clarification around that, Leader.

Madam CHAIR - Good pickup by the member for McIntyre.

Ms RATTRAY - It was in clause 5 as well that I missed.

Madam CHAIR - Oh, is it? The Clerks have already seen that one.

Mrs HISCUTT - It is to make it consistent with the original act on section 39(1)(a), put in an (ab) there, because it is not, the main bill says:

> (b) it is not practicable for a person to comply with a State Policy, a provision of this Act, the regulations or an environment protection policy.

It is already in there in the original act. This is to make this amendment comply with the original act.

Ms RATTRAY - There are times when it will not be practicable for a person to comply with - I will not read them out again, I do not want to be repetitive - for those under this improvement program, when an environmental improvement program is required. Is that the case that there will be times when it will not be practical?

Mrs HISCUTT - You have to demonstrate you are moving towards a better result, but here in the original bill, it says some things like the activity carried out by a person, or that activity in combination with other activities is causing or may cause serious or material environmental harm or some other reason. However, you have to put in a plan to prove you are moving towards improvement.

Clause 14 agreed to.

Clause 15 agreed to.

Clause 16 -
Section 44 amended (Environment protection notices)

[5.44 p.m.]

Ms WEBB - It is a purely technical drafting thing. Clause 16, section 44 amended in the principal act. It says:

> Section 44 of the Principal Act is amended as follows:
>
> (a) by omitting from subsection (1) …
>
> (b) by omitting from subsection (2) …

And then it has the phrase that is being replaced. When I looked at section 44 of the principal act, I wondered why the phrase that is being removed and replaced is in subsections (1)(c) and (2)(c). Why is it not more specified like that? Why was it just subsection (1) and subsection (2)? Was that a drafting decision? I know it is a little thing, but I wondered.

Mrs HISCUTT - It is a drafting way. We have decided that what was originally there is not enough, so it extends it out to the environmental protection policy environmental standards or the technical standards, so as to expand on that part there.

Ms WEBB - It is of no consequence, really. I was not asking about the change made, which I completely understand. I was asking why it was not specifically (1)(c) and (2)(c) there because those are the parts of the original act that are being amended, not just (1) and (2). It was not a content question; it was a labelling question.

Mrs HISCUTT - It appears to be clear, because paragraph (c) is the only part that mentions that.

Clause 16 agreed to.

Clause 17 -
Division 1B inserted

Subclause 96(O) -
Purpose and contents of environmental standards

Ms WEBB - A question on subclause (6)(a), on page 18. The subclause says:

> Environmental standards may relate to any one or more of the following:
>
> (a) an environmentally relevant activity;

I wondered what an environmentally relevant activity was. What does that definition encompass?

The other things that are listed there, (6)(b) and onwards, seem clearer to me; but environmentally relevant activity was not. That is the only question on that one.

Mrs HISCUTT - The definitions of environmentally relevant activity are in the principal act. There are quite a few. I am not going to go through them now. It is section 3(1), Interpretation:

> ***environmentally relevant activity*** means an existing or proposed activity which may cause environmental harm, and includes a level 1, level 2, or level 3 activity and an environmental nuisance;

It is in the original act.

Clause 17, Subclause 96(O) agreed to.

Clause 17, Subclause 96(P) -
Consistency with certain instruments

Ms WEBB - It is a minor issue; and it might be the same answer, that I have not accurately checked back into the original act. I am interested in subclause (2)(c) - any environment protection policy; which is what environmental standards must not be inconsistent with.

What does that specifically cover -'any environment protection policy'?

Mrs HISCUTT - There are two high-level policies at the moment which this includes; one relates to noise and one relates to air.

Clause 17, Subclause 96P agreed to.

Clause 17, Subclause 96Q agreed to.

Clause 17, Subclause 96R agreed to.

Subclause 96S -
Environmental standards, &c., not statutory rules

[5.50 p.m.]

Ms WEBB - Madam Chair, subclause 96S is environmental standards, &c, not statutory rules. My question is, how are environmental standards drafted? Are they drafted by OPC? Are they drafted as legal instruments like that, or what form do they take, legally? I am asking it here because it says it is not statutory rules, and so it is not going to be following the Rules Publication Act the way that statutory rules would be. Are they legal instruments in another sense?

Mrs HISCUTT - The department prepares environmental standards and exhibition documents. OPC is consulted on the drafting. For example, at the moment the Finfish Standards are drafted by OPC because they contain legally worded clauses.

Clause 17, Subclause 96S agreed to.

Clause 17, Subclause 96T -
Environmental standards, &c., may be disallowed by House of Parliament, &c.

Ms RATTRAY - I want to get on the record the time for compliance. The subclause notes that environmental standards may be disallowed by House of Parliament. We received some times through the briefing and I wrote down gazetted 21 days plus 10 sitting days, and I want to make sure I wrote down the right numbers for clarity and for anyone who might read *Hansard*.

Mrs HISCUTT - The member for McIntyre has the information correct.

Mr VALENTINE - During the briefing an issue came up about these standards - are they referred to the Subordinate Legislation Committee?

Mrs HISCUTT - An environmental standard does not meet the definition of a regulation under the Subordinate Legislation Act 1992 section 3(1) or under the Subordinate Legislation Committee Act 1969. The environmental standard is, therefore, not subordinate legislation and consequently is not required to go to that committee. In terms of public notification, any making, amendment or revocation of any environmental standard must be notified in the *Gazette* in accordance with section 47 of the Acts Interpretation Act 1931. I am sorry, but this is a bit of repetition.

It is the Government's opinion that the six-week consultation period and capacity for disallowance of either House provide an appropriate level of oversight and review by parliament, industry and the public.

Ms WEBB - Madam Chair. We are on subclause 96U, are we not?

Ms FORREST - 96T.

Ms WEBB - 96T, sorry.

Clause 17, Subclause 96T agreed to.

Clause 17, Subclause 96U -
Effect of environmental standards

[5.55 p.m.]
Ms WEBB - I think under this one, I can ask questions that relate back to subclause 96P, which was about consistency with certain instruments. This subclause is about the effect of environmental standards and lays out different circumstances under which they are to have effect. My understanding of 96P is that the standards are pretty much trumping everything, so if there is an inconsistency between conditions of a licence and the standards, under 96P, the standards come out on top.

In terms of the effect of these environmental standards, could you have a circumstance in which a condition could be put on a licence that exceeded what is in the environmental standard, that then would not be trumped by the standard because it is a higher measure or higher condition; or does 96P not allow that? Does that mean that, in effect, the standards could put its ceiling on the rigour of conditions?

Mrs HISCUTT - It appears within the standards, there is a set of standards and that could apply. Such as, it could be a different set for different industries or something like that, and it that it would be most unusual that the permit would allow anything above that which is set in the standards, even though within the standards themselves, there are different levels for different scenarios and circumstances. So, there would not be a condition on a permit that would exceed the set standard.

Ms WEBB - I find it extraordinary that you would be able to categorically say that.

Mrs HISCUTT - There may be an 'unless' to come?

Ms WEBB - Yes, because the environmental standard will lay those matters out, and as you say, will have potentially different variations or levels. I am imagining a circumstance - and I would be surprised if you say that this could never happen - a circumstance where there is a particular environmental situation emerging and the director might want to put a licence condition to manage that situation which sets a higher bar than those in the environmental standard outlined there. What concerns me - particularly looking at subclause 96P - is that not allowable?

Would the director not have the ability to be able to put a licence condition on that had more rigour to it than the standards, to manage a particular situation if the director deemed it to be necessary? Section 96P says that the standards trump everything. I am interested if you could tell me categorically that that may never happen or be required.

Mrs HISCUTT - Unless there were exceptional circumstances relating to a particular site.

Ms WEBB - Does 96P prevent that?

Mrs HISCUTT - No, unless there were exceptional circumstances relating to a particular site and 96P allows the director to do a particular condition that is specific to a particular site, above and beyond the standard conditions.

Ms WEBB - I need you to point me to that again. When I look back to 96P(5), that quite clearly says to me that inconsistencies go in favour of the standards. That a licence condition that is inconsistent with the environmental standards is to have no effect to the extent of the inconsistency. Can you point me to where it says that that can happen? That it is not a ceiling?

Mrs HISCUTT - The standards apply but this allows the director to put a particular standard, or condition, which relates to a particular site.

Ms WEBB - What does?

Mrs HISCUTT - All of 96, but if there is an inconsistency the environmental standards would apply.

Ms WEBB - So you cannot have a higher condition? I do not see that anywhere in the legislation.

Mrs HISCUTT - This seems to be different words. It works in the same way as a regulation. This might help the member understand it a bit better. It works in the same way as a regulation. The director cannot impose a tougher control than the regulation unless the regulation provides for it. The standard is about providing certainty and clarity for industry and the community. It depends how the standard is drafted. It might recognise that in some circumstances a more onerous site-specific condition is required. That is the 'unless'.

Clause 17, Subclause 96U agreed to.

Clause 17, Subclause 96V agreed to.

Clause 17, Subclause 96W -
Review of environmental standards

Mr VALENTINE - For absolute clarity, it says here that:

> The Minister must, within the 6-month period beginning on the tenth anniversary of the day on which any environmental standards came into effect, review the environmental standards to determine whether or not they should be amended or revoked.

If any environmental standards are reviewed or revoked, do they get laid before parliament?

Mrs HISCUTT - Yes.

Ms WEBB - I have an amendment for this one.

Mr Valentine - Did I miss something?

Ms WEBB - It was just a yes.

Mr Valentine - Sorry, I did not hear it.

Ms Webb - You might explore it more when I move these amendments. I have amendments to move in my name.

Clause 17 -

First amendment:

Page 34, proposed new section 96W.

Leave out 'tenth'.

Insert instead 'fifth'

Second amendment:

Madam CHAIR - I am only doing one at a time because they are not related.

Ms WEBB - This one is. It is the same subsection. The first two go together. The third one I am not doing until I get to that subsection. The first two relate to 96W. I can do them separately, but then I have used two calls.

Ms Rattray - You get more speaks though.

Ms Webb - True. I will just do the one. Alright, I will do the first two.

Madam CHAIR - They do deal with different matters within the one clause. If the Government was of a mind to support one but not the other, you ruin your chances.

Ms WEBB - You never know your luck in a big city.

Madam CHAIR - I know. I will leave it to you.

Ms WEBB - I am just reading the first amendment. I will leave it at that.

Madam CHAIR - You have read that in already. That is fine.

Ms WEBB - I will speak to that one to start with. The clause 96W we are talking about is review of the environmental standards as the member for Hobart pointed out and asked about. The member for Hobart conflated a couple of things in and therefore the straightforward answer he received of 'yes' was perhaps a bit misleading in a way, not deliberately, because what this says is 'the minister must within the six-month period beginning on the tenth anniversary', so after 10 years, 'of the day on which any environmental standards came into effect, review the environmental standards to determine whether or not they should be amended or revoked'.

There are two processes here. The first process is the minister reviewing 'in order to make a decision'. Do we need to do something with these? Do we need to amend or revoke? If the minister's answer was 'yes', then it would refer us back to that process about amending and revoking which is back in 96 -

Mr Valentine - 96Q(1).

Ms WEBB - Yes, that is right. About exhibition periods and consultations and things like that.

Madam CHAIR - 96R.

Ms WEBB - There you go. If it was decided to amend or revoke or change in some way, we would go back to that process which involves some consultation and which involves running before parliament the end result. What I am interested in and what this amendment is about is the review part, the first part of the process because it is not clear to me how that review process occurs and who is involved in that. If the review happened and the minister said, no, we do not need to do those things then as far as I can tell, there is nothing public that occurs or public consultation.

We will get to public consultation in my next amendment. This amendment is about the time period. I asked about this in my second reading speech and received some information in the Leader's summing up. I asked for a rationale about why the 10 years when that seems a

long time. We have just had a Climate Change act that set a lot of things to be reviewed in five-year cycles because of certain acknowledgment things are moving quickly in our environmental areas. Particularly with climate change we need to keep up to date and 10 years seems like a long time to set a set of standards under which all environmental licences for all these different industries are then set.

Ten years is an especially long time given what we have heard in answer to my questions on the earlier section, which is that these standards set a ceiling. Unless the standards allow it in and of themselves, which they may or may not, if they do not the EPA director or board cannot set a condition on licences that is more rigorous than what is in the standards.

There is a 10-year period in effect that these environmental standards for whatever industry become potentially a ceiling the way it is legislated here. It is pretty concerning because we are seeing a lot of changes and we do see even environmental circumstances being affected by certain industries changing quite rapidly; sometimes, more rapidly than anticipated. So, unless we knew that every environmental standard was going to say 'the director can have discretion to put a higher or more rigorous condition on', we are effectively allowing a ceiling to be put in place for a decade.

We have never had environmental standards of this sort here before. This is our first iteration of doing them. The first one is going to relate to finfish farming, which we have heard, and that is positive, and quite timely, given the new planning that is happening in that space. It is the first time we have done them. We are putting them in place, under this, for a decade - which I consider is too long.

There is no harm, in this instance, making this a five-year period. It aligns with what we are putting in place in other legislation, like the Climate Change act. It is responsible, given it is our first iteration of standards of this sort. It is reasonable, given that we may well be putting a ceiling in place through these environmental standards which is then applying for the duration.

I encourage members to see changing the time line from 10 years to 5 years as responsible and appropriate given the circumstances.

Mrs HISCUTT - A 10-yearly review is consistent with environmental regulations and environmental protection policies under the act. When you are talking about industry, 10-year reviews provide certainty to industries and the community. Businesses work on that future looking forward, and this provides certainty to the industry and to the community, because it is something they have been calling for a long time. This also provides a greater flexibility and streamlining of administrative processes.

Importantly, the minister will be able to review an environmental standard at any time, should there be sufficient reason to do so. As a matter of course, it is accepted government practice that any review of a significant statutory document, such as an environmental standard, will include public consultation to ensure that a full range of views are canvassed and considered by the minister.

For these reasons, the proposed amendment is not supported, because we consider the time frame is too short.

Ms RATTRAY - A question to the Leader, in response to your answer to the member for Nelson. Would the minister have to receive something in writing to trigger an earlier review, or to have a look at those standards? Or would it be 'oh, you know, he has heard something around the traps', or the director of the EPA raises a matter? What would trigger that earlier process that you just spoke of? I am interested in how that might unfold.

Mrs HISCUTT - Anything could trigger a review. It could be a concern via a public member that is a legitimate concern. It could be a matter that the EPA director, him or herself, raises as a concern. It could be something that is brought to the attention of the minister. It could be anything that is of concern to anybody that raises that issue with any of those bodies. It could be some new scientific update. It could be anything.

Mr VALENTINE - In doing this review, does the minister have to take advice from any other entity - such as the EPA?

Mrs HISCUTT - Yes, anything would be considered if it was brought forward and had merit. Of course it would.

Ms WEBB - That is very interesting. The reason we have been given for the necessity of a 10-year period is that it provides certainty for industry.

Mrs HISCUTT - And community.

Ms WEBB - Primarily for industry. I believe the community would be quite happy for these to be looked at every five years. I do not think you are going to get a community member who comes forward and says: 'Yes, stretch it out to 10, instead of five'. Let us be clear here; the rationale is it is certainty for industry. It is a commercial imperative.

Mrs HISCUTT - Through you, Madam Chair, they are the member's comments, not mine.

Ms WEBB - Indeed, that is what I am pointing out; and the person making the decision is not our independent EPA director acting independently in the protection of our environment. It is the minister's decision whether to review early, to bring it in from the 10 years. Even though it could happen earlier, it is a ministerial decision, it is a political decision. It is not a scientific decision.

Mrs HISCUTT - It might be based on that.

Ms WEBB - It is not necessarily a decision that is guided by other things in this act. It is a political decision. Yes, of course the minister could pay attention to advice from whoever he, she, or they wanted; but it is a political decision. Do not lose sight of that. It is a situation where - if you think about it - we have an imperative about certainty for industry as the reason for 10 years instead of five. The reality is a review at five years could readily say everything looks good, keep it the same. It does not necessarily mean it is going to change for industry.

If there was a reason to change it after five years because a review was required then, as per my amendment, that requirement would be because there is some environmental reason to change it at five years. Essentially, what we are saying is, if we bump it out to 10 years and there is an environmental reason to change it at five years, for example, the only reason that

can happen under this is if the minister makes a political decision for it; and balanced against that is a commercial imperative of certainty to industry.

I am highly concerned about that. I do not think there is any public benefit or community interest that says it should be 10 years and not five. All things being equal, a review at five years could say, yes, the standard stays the same and goes forward for another five-year period and industry carries on. However, if there is a change that says it needs to change earlier than 10 years, this does not necessarily allow it to occur, unless the minister of the day decides to, and that is a political decision, not necessarily a scientific decision or a community interest decision, if we are balancing things up.

I am concerned about that. I encourage members to see a five-year period as reasonable and responsible, especially in this first iteration. All being well, and if there is no reason to make a change at five years, then certainty goes on for industry. I have not heard any other reason than certainty for industry provided here; and I do not consider that is good enough when that could be the thing that trumps a positive environmental outcome because of the need to change.

Mrs HISCUTT - This 10-year time frame here is consistent with the environmental protection policy and other state policies; it is consistent across the board.

[6.29 p.m.]

Ms FORREST - Madam Deputy Chair, I have been llistening with interest, particularly to the Leader's first response on this - and you alluded to it in that last comment - that this is consistent with other policies.

What this is consistent with is the repeal of regulations; they have a 10-year life and they are repealed. This is not the same, because there is no repeal. With the regulations, as we know, there is an automatic 10-year repeal and they have to be remade, or not remade if they are not needed. Sometimes, when they are remade, we know they come back with no real change or no change. Or, they are remade to reflect the changes in that particular area. There is a proper process. They expire; they have to go through a process.

The Subordinate Legislation Act tells you what the process is. Certificates from the Treasurer have to be sought, regulatory impact statements have to be done, unless they are exempted from it because there is not deemed to be an impact by the Treasurer. Treasury have processes there.

This is not the same. What this is saying is there an environmental standard that is going to be set and forget, not necessarily forget, but set for 10 years and the 10-year time frame, rather than a full review, which happens with any regulation, it will be a review to say, yes, it is okay, we will continue as it is.

They are not comparable on that front. When I read 96W it says:

> The Minister must, within the 6-month period beginning on the tenth anniversary …

Basically, after 10 years, this is what happens with regulations, at least six months out. It does happen much more, as I mentioned in a previous debate recently, that the departments

are on to this now. We do not end up with a whole postponement of repeal bill for regulations. When we are getting close to the 10th anniversary we will then undertake a review, but not necessarily engage anyone else in that process. The minister will have a look at it and say, yes, they are fine still, we do not have to do anything. There is no process that kicks in to see them properly reviewed. They may well be remade basically the same because things might not have changed. They might still be entirely appropriate.

The Leader is not convincing me that 10 years is a good time. It is a long time and as the member for Nelson alluded to and I said previously myself, the Climate bill itself has shown us how urgently we need to act in terms of protecting our environment and hopefully, preventing catastrophic damage to our environment and to our planet.

Unless the Leader can come up with something more convincing or this becomes a dropped egg clause where there is a full repeal and remake of the standard, I do not think you can use that argument. So I think a five-year review, and having a look at it.

Whether this next amendment of the member for Nelson's is agreed or not is another matter. That is why I suggest you do it separately because they are two separate things, but at least a review by the minister in light of firstly, being a new process we are adopting. They are like regulations but not regulations. They do not go to the Subordinate Legislation Committee. They just come to the parliament and there is not a process where Subordinate Legislation Committee can do it. There is no inquiry process like sub leg can do, unless there is a motion to refer that standard to Committee B which could be done.

I am not saying it cannot be done. It can be done, then you notionally need to put a disallowance motion on the Notice Paper why you did that to hold it.

Ms Webb - The review might even lead to that.

Ms FORREST - That is what I am saying. I am supportive in principle of the five-year time frame for a review. It is not the same as a regulation. If it was the same as a regulation there would an exploration process in it like all subordinate legislation. I am not convinced. I will be happy if the Leader can seek to convince me, but not to date.

Ms WEBB - Thank you to the member for Murchison for speaking to it. I agree. It is helpful to have that reflection on the differences between regulations and what these are. It is useful for that to be thoroughly laid out. It does not have those checks and balances that regulations do have. I encourage members to err on the side on responsibility and vote for this amendment.

Mrs HISCUTT - In the finale, I urge members not to vote for this amendment. A 10-year review is consistent with environmental regulations and other policies under this act and I do not think it is necessary.

Mr VALENTINE - Simply to say that this does not necessarily mean that this could not be five, the fact that others are 10. That is the important thing to remember. How I couch that in a question - you are definitely not going to support five years, Leader.

The Committee divided -

AYES 7	NOES 7
Ms Armitage	Mr Duigan
Ms Forrest	Mr Edmunds
Mr Gaffney (Teller)	Mrs Hiscutt
Mr Harriss	Ms Howlett (Teller)
Ms Rattray	Ms Lovell
Mr Valentine	Ms Palmer
Ms Webb	Mr Willie

Madam CHAIR - The results of the division are ayes seven, noes seven. Therefore, as the member has been unable to convince the majority, I resolve that the question passes in the negative.

Amendment negatived.

Clause 17 -

[6.40 p.m.]

Ms WEBB - I move the following second amendment to clause 17 in my name:

Second amendment

Page 34, proposed new section 96W, after. 'review the environmental standards'.

Insert ', and conduct public consultation,'

We are looking at the same 96W, speaking about the standards, which now will remain on a decade before they are reviewed by the minister. This amendment seeks to put a requirement that the minister's review includes public consultation, because the way it stands at the moment in 96W, that process presumably can look however the minister wishes it to look.

There is no requirement about what needs to be part of that review, what criteria need to be applied. It does not even say it has to be documented. It certainly does not necessarily have to be public, according to what is here.

This is the review done by the minister to decide whether or not to have a process to amend, or revoke, or change. If the minister decided to do any of those things, then that would trigger the more fulsome process. This first decision is about whether or not to go in that direction, and there needs to be a higher requirement there of some sort for accountability on that decision, and that review process.

This is a straightforward way, without being too prescriptive. It says, public consultation needs to be involved in that, and I think, even more so, given that there is now going to be that decade of time before the minister's review even comes into play.

I encourage members to support this amendment. This is a responsible way to make sure that there are checks and balances around what is essentially now, as it stands, a political decision made by a minister once every 10 years, potentially behind closed doors and with no public visibility or documentation at all.

I encourage members to support the amendment.

Mrs HISCUTT - It is a matter of course, and it is accepted government practice, that any review of a significant statutory document, such as an environmental standard, will include public consultation, to ensure that a full range of views are canvassed and considered by the minister.

It is the Government's opinion that the six-week consultation period, and capacity for disallowance by either House, provide an appropriate level of oversight and review by parliament, industry and the public. In addition, in terms of public notification, any making amendment or revocation of any environmental standard must be notified in the *Gazette*, in accordance with section 47 of the Acts Interpretation Act 1931.

So, for these reasons, the proposed amendment is not supported because there is plenty of checks and balances.

Ms Webb - The minister does not have to do that.

Madam CHAIR - Order.

Ms Webb - This review does not apply to that. Misleading.

Mr VALENTINE - Quite clearly, if the Government is of a mind to have the consultation anyway, that is this Government. What about the next one? What about the next one after that?

Having it in this act, in this bill - in this act, when it becomes an act - stipulates and shows very clearly that we expect the community to be kept up to speed with these things.

No-one reads the *Gazette*. You answer me honestly when you last read the *Gazette*. No-one reads the *Gazette*. Not very often. I mean, some people do -

Mrs HISCUTT - You have shamed me now.

Mr VALENTINE - If you are a minister, you will. I appreciate that.

Ms Webb - Since they cancelled the RSS feed for it, none of us gets it regularly.

Mr VALENTINE - Very few people bother to read the *Gazette*. Even people probably do not always read the paper advertisements.

Ms Webb - It does not even need to be gazetted.

Mr VALENTINE - There is no harm in having it in here. If it is going to happen anyway, as we are being told, then put it in here and make it transparent. That is the whole

idea of the arms-length EPA, to have good transparency and efficacy of process and all those sorts of things. Let us make this a similar thing, so that members of the public are kept right up to speed with what is expected when it comes to environmental standards. It is important that the public have that good opportunity.

I agree with leaving it in there, or putting it in there.

Ms RATTRAY - I am encouraged by what the Leader read out about the process that would unfold regarding this. I see no reason why conducting public consultation would not just be a matter of course. To have it in there would make absolutely no difference. It would give us a level of comfort that when we are not here - some of us might be, but some of us might not be - in 10 years time, that that would be undertaken.

My only question is, and this is to the mover of the amendment, about industry being included as well. We have talked a lot about industry and this is certainly related to industry for a review. Was there some consideration, or would that also be by matter of course? It is one to the Leader, and one to the member who moved the amendment.

Mr GAFFNEY - I support this amendment. I know the Government is not going to change its mind on this. The question is here, is the Labor Party going to vote for this amendment? Otherwise we could stop a lot of this conversation, because if it is like the amendment that went through, it will be a seven/seven.

Madam CHAIR - No party can speak for themselves.

Mr GAFFNEY - I am wondering whether the Government has had a conversation with the Labor Party to see whether they support this amendment.

Ms LOVELL - I am open to supporting this amendment. I have listened with interest to the Leader's response. I take some issue with the member for Mersey's comments, because on any amendment, we could have any seven members in this Chamber voting in any particular way.

Ms Webb - Oh, rubbish.

Madam CHAIR - Order.

Ms Webb - Sorry.

Ms LOVELL - Just because there are three members of this Chamber who happen to hold a position that the previous amendment was not necessary, like many members have done on plenty of my amendments, I might add -

Madam CHAIR - Let us get back to the amendment if you would not mind, thanks.

Mrs Hiscutt - No, defend yourself.

Madam CHAIR - Order.

Ms WEBB - Member for Rumney, I withdraw that comment and apologise to you for it.

Ms Rattray - So you should.

Ms LOVELL - Thank you. I have not had any conversations with the Government about this amendment. I have not had any conversations with the member for Nelson either, but that is not any reflection on the member for Nelson. I have not had conversations with anyone on this amendment. I came into the Chamber to hear the arguments put by the member for Nelson, and to hear the response from the Government.

I actually think the consultation provisions in this bill for when environmental standards are made and amended are very good. They are very thorough and very good. However, the question remains - as has been raised by the member for Nelson, in terms of the decision that is made on that 10-year time line, which we are comfortable with, and we are comfortable to leave that 10 years - the decision about whether any amendment happens, or any revocation happens, sits only with the minister. It is not until that decision is made that that thorough consultation process commences.

There is merit in having a process of public consultation. I appreciate that the member for Nelson has left it fairly non-prescriptive in what does that look like, and the Government should take some comfort from that. In light of what the Leader has said that consultation is certainly the intention of the Government, I agree with the member for McIntyre that there does not appear to be any harm in including the amendment in the bill.

At this stage, speaking for myself, I will be supporting the amendment.

Mrs HISCUTT - I will speak for the Government. I am not going to repeat what I said, but I thought I laid down some pretty good reasons why we do not need that in there. Governments of all persuasions do not stay governments for very long if they do not consult with their people. I have outlined already how this will be done and I do not think it is absolutely necessary at all to be duplicating this in this bill.

Ms WEBB - Thanks to members for their contributions. For absolute clarity, and as the member for Rumney rightly pointed out and I will reiterate it so the Leader hears it again, what you laid out was the process for making and amending, revoking these standards. That process you laid out with consultation is what is in the bill for that side of the process. What is dealt with in 96W in the first instance is the review which is done by the minister. There is no requirement in this bill anywhere - yet - that says what ministerial review has to look like or that it has to include consultation with anyone, which is why the amendment has been put forward.

It is positive to hear the Government would intend to consult and as the member for Hobart said, that may change or it may not change with different governments. Either way, there is no harm in putting 'and conduct public consultation' in there, because literally there is nowhere else in this bill that says that occurs for the review process. Let us be clear and not be misleading about what is in there for the making and revoking and amending and what is in here for the review currently. There is currently no consultation in here for the review process by the minister. I encourage members to see this as a positive and uncontroversial inclusion and if, as the Leader says, the Government would do it anyway then there is no harm in supporting it.

Ms RATTRAY - My question around industry?

Ms WEBB - My view would be and I have left it plain, that public consultation is with everybody.

The Committee divided -

AYES 10	NOES 4
Ms Armitage	Mr Duigan (Teller)
Mr Edmunds	Mrs Hiscutt
Ms Forrest	Ms Howlett
Mr Gaffney	Ms Palmer
Mr Harriss	
Ms Lovell (Teller)	
Ms Rattray	
Mr Valentine	
Ms Webb	
Mr Willie	

Subclause 96W as amended agreed to.

Subclause 96X -
Purposes, and contents of technical standards

[6.55 p.m.]
Ms WEBB - We are up to 96X and have moved onto technical standards. The questions on 96X, was firstly a question about subclause (4), page 35, paragraph (4)(a), which says:

> (4) A technical standard may -
>
> > (a) authorise any act, matter, or thing, that may be included in the technical standard to be from time to time determined, applied or regulated by the Board or the Director;

Noting there is fairly broad discretion there, I wondered, would there be any criteria or anything documented that sort of constrains that discretion or at least describes a process for the considerate of that determination from time to time?

The next question on 96X is a broader overarching question on enforcement of technical standards. This may not be the right section, but I have it on a sticky note in this section, so I will ask it - you can direct me to another section if it is more relevant, but how do they become enforced?

Mrs. HISCUTT - Technical standards will be implemented by a permit or licence condition.

Ms RATTRAY - To the Leader and her team, for clarity for myself and others who may not have wondered this, or may already know the answer:

(5) The *Acts Interpretation Act 1931* applies to the interpretation of a technical standard as if it were by-laws.

We previously heard in 96T, that the Subordinate Legislation Committee may not get to examine these regulations because they are not classed for that. However, the Subordinate Legislation Committee does examine by-laws - and obviously they are mostly local government by-laws - so I am interested in the difference here, if I could have that explained. If they are considered by-laws, would these technical standards receive the scrutiny of the Subordinate Legislation Committee?

Mrs HISCUTT - The technical standards are not by-laws. If they were, we know the procedure; but they are not by-laws. Under the Acts Interpretation Act 1931, its wording and phrases are to be interpreted in the same manner as by-laws would be interpreted but they are not by-laws.

Ms RATTRAY - Subclause 96X(5) clearly says:

> The *Acts Interpretation Act 1931* applies to the interpretation of a technical standard as if it were by-laws.

That is very clear to me. So, I do not quite understand that if it is saying that it applies to the interpretation of a technical standard as if it was by-laws, why would it not be able to be examined as if it was a by-law?

Mrs HISCUTT - The advice from OPC says that its wording and phrases are to be interpreted in the same manner, but the technical standards are not by-laws.

Ms WEBB - We did talk about this in the briefing. My understanding from the answers provided there was a little different but might be clearer. When it says

> The *Acts Interpretation Act 1931* applies to the interpretation of a technical standard as if it were by-laws.

that means that in the Acts Interpretation Act 1931 everything that act says about by-laws is saying about these. That is the way I understood the briefing.

Ms Rattray - Which includes examination by the Subordinate Legislation Committee.

Ms WEBB - That is what I understood too; but maybe I misunderstood it from our briefing. That is the way I thought it was explained to us.

Anyway, I wanted to return to the question I asked earlier.

Ms Rattray - I derailed you.

Ms WEBB - That is fine; and a prompt answer was provided - and it did not quite register with me so I am going to have to ask for it to be repeated.

My broader question is about enforcement of technical standards. I do not see anything here about penalties, or consequences for not meeting technical standards, or situations where

there has to be some form of enforcement. Does that come into effect in terms of technical standards? That was one of the ones I missed the answer to.

Mrs HISCUTT - Penalties can be applied for breaches of the terms and conditions of the licence. That is already in the original act.

With regard to by-laws, we have since had confirmation from OPC that it refers to the wording and phrases to be interpreted, but they are not -

Ms Webb - What wording and phrases?

Ms Rattray - Still, it is an interesting way of -

Mrs HISCUTT - Well, it is an interesting way, but OPC has clarified that it refers to its wordings and phrases which are to be interpreted.

Ms Rattray - However, not its actions?

Mrs HISCUTT - However, technical standards are not by-laws.

Ms Rattray - It would have been helpful to have had the evidence.

Mrs HISCUTT - That has since been clarified by the OPC to be the case.

Subclause 96X as amended agreed to.

Subclause 96Y -
Making, amendment, revocation and expiry of technical standard

Ms WEBB - My next amendment is after 96Y.

Subclause 96Y agreed to.

Ms WEBB - I am not going to move the amendment, on this. Partly because I think it will go the way we went with the last amendment, where I tried to bring a five-year review into the environmental standard. This amendment would propose to have a five-year review of the technical standards that includes public consultation. I do not believe that is going to get the support of the Chamber, and it would then be inconsistent within the legislation.

I will not be moving that amendment. However, it does disturb me that there is no particular requirement in here for a review that is open and transparent.

Madam CHAIR - Before you sit down, because you are not moving it, this will be your last call on clause 17.

Ms WEBB - This one here?

Ms FORREST - This one you are having now. So if there is anything on Z or ZA, you probably need to ask it in broad terms.

Ms WEBB - I have something on Z. So let me move onto that. No, that was something we covered already.

Subclause 96Z agreed to.

Subclause 96ZA agreed to.

Clause 17 as amended agreed to.

Clause 18 agreed to.

Clause 19 agreed to.

Title as read agreed to.

Bill reported with amendment.

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

That the bill as amended in Committee be taken into consideration tomorrow.

Motion agreed to.

MESSAGE FROM THE HOUSE OF ASSEMBLY

Committee Appointment - Public Accounts Committee and Joint Sessional Committee on Gender and Equality

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

Mr President,

In accordance with the provisions of section (3) subsection (3) of the Public Accounts Committee Act 1970 (No. 54), the House of Assembly has appointed the honourable Member for Franklin, Mr Young, to serve on the Parliamentary Standing Committee of Public Accounts:

Further, the House of Assembly has appointed the honourable member for Franklin, Mr Young, to serve on the Joint Sessional Committee on Gender and Equality in place of the Leader of the House.

Mark Shelton, Speaker
House of Assembly
23 November 2022

ADJOURNMENT

[7.10 p.m.]

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

> That at its rising the Council does adjourn until 10 a.m. Thursday 24 November 2022.

Motion agreed to.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I apologise for the Go Home on Time Day today. Mr President, I move -

> That the Council do now adjourn.

Circular Head - Ambulances and Paramedics

[7.11 p.m.]

Ms FORREST (Murchison) - Mr President, I will speak briefly so we can try to get home nearly on time. I rise again on adjournment to discuss the ambulance services in Circular Head. Further information has come to me and I ask the Leader if she would work hard to get some sort of response from the Premier and Minister for Health in response to these issues, which I will reiterate and raise.

The information came to me from the General Manager of the Circular Head Council. I will read most of the email that she sent to me:

> I am following up on our recent meeting with an issue that is becoming increasingly of local concern. I have seen your FB post on (lack of) ambulance coverage in Smithton. There was also a front-page article in the Chronicle this week on the subject outlining recent local experience which may be of interest.
>
> Thank you for raising this in parliament. It is an issue of increasing local concern. The single ambulance and paramedic is a real potential point of systemic failure. We wrote to the Premier on 5 September outlining the lack of coverage and expressing grave concern over the risks to the community and received [what is described here as] a bland response on 4 October which explained to us the coverage we currently have.

We do get this sometimes. I did not see the email that was sent but that is why the email was sent because the council was identifying the shortage. That response:

> … moved us [the Circular Head Council] no further forward and held out no hope of change. We were advised that the 10-year Master Plan is being prepared, but we need something more concrete and soon.

> While our paramedic is supported by eight volunteers, they are limited by training and qualifications as to what they can do and although we are grateful for their willingness to assist, they are not substitute paramedics.
>
> Circular Head Youth Leaders sent a detailed letter to the new Mayor earlier this month outlining recent accidents and wait times, expressing their concern and asking us to advocate for the community so you will understand that momentum for action is gathering. We are keen to harness the energy and would be interested to discuss how best to approach this. I personally feel that another letter to the Premier is unlikely to achieve improved outcomes for the community.

That is why I am asking for a more urgent response tomorrow from the Premier and the minister for Health on this very critical and urgent problem.

I also had a message from a constituent who is a volunteer ambulance officer. He said they have been volunteering for 29 years and they have never known it so bad.

That person says:

> I really feel for the vollies who cop the flack in this up the street. [when people are not attended to early enough.]

That person has handed in her uniform.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - I will make every effort to get a response but I cannot guarantee that the Premier will have the time or the resources tomorrow. I will make an effort to get a response and get it to you as soon as I can.

The Council adjourned at 7.14 p.m.