

DRAFT SECOND READING SPEECH

HON. JEREMY ROCKLIFF MP

Marine Farming Planning Amendment Bill 2016

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

Madam Speaker, in the early 1980s rainbow trout were successfully grown in Tasmania in the marine environment. These successful trials in the 1980s laid the foundations for the development of Tasmania's salmonid marine farming industry.

Since the 1980s the salmonid industry has grown to have a farm gate value of more than \$700 million and it expects to grow to a billion dollars by 2030.

The Tasmanian salmon industry is vertically integrated with investment in hatcheries, grow-out and processing infrastructure. This investment by industry creates significant wealth generation and employment opportunities in Tasmania and importantly in regional areas.

Madam Speaker, Tasmanian salmonid products are recognised nationally and internationally and promote Tasmania's reputation as a primary producer of fine food products.

Of prime importance to the industry is the environment in which it operates. It requires high quality waters to grow fish sustainably. If environmental conditions are compromised fish performance will be affected.

The industry operates within a rigorous environmental monitoring and management regime which industry accepts in the interests of sustainable development.

Madam Speaker, I recently announced a range of reforms to ensure that the regulation of the salmon industry keeps pace with industry expansion and community and market confidence is maintained. There are three measures being implemented to support the continuing growth of the salmon industry.

This includes the Environment Protection Authority taking over responsibility of environmental regulation and day to day environmental management of the industry. Second, a new industry levy will be introduced that will directly contribute to funding the Department's work relating to the expanding industry production. Lastly, and the purpose of this Bill, is to modernise the penalty regime for breaches of the *Marine Farming Planning Act 1995*, appropriate to the scale of the industry.

The purpose of the *Marine Farming Planning Amendment Bill 2016* Madam Speaker is to amend the *Marine Farming Planning Act 1995* in order to amend the enforcement provisions relating to the marine farming management regime established under the Act to account for the scale of Tasmania's world class sustainable salmon farming industry.

Madam Speaker, when the *Marine Farming Planning Act 1995* commenced the penalty provisions contained in the Act were considered appropriate sanctions for offences under the Act. This included the possibility of disqualification from holding a lease and the imposition of fines considered to be appropriate in the context of the scale of the industry.

Recent experience has demonstrated that the current penalties contained in the Act are inadequate given the potential financial gains that can be derived by a company from a breach of this nature.

With the significant growth in the salmonid marine farming sector, it is now necessary that the provisions of the *Marine Farming Planning Act 1995* be amended to enable appropriate monetary penalties to be imposed for significant breaches of the Act, without necessarily resulting in automatic disqualification from the holding of a marine farming lease.

Currently Madam Speaker, once a person has accrued 200 demerit points they will be disqualified from holding or obtaining a lease under section 124 of the *Marine Farming Planning Act 1995*. One demerit point is accrued for each penalty unit imposed by a court. Consequently the current maximum fine for a breach of section 91 of the *Marine Farming Planning Act 1995* of \$31,400, if imposed by the court, would result in disqualification.

The salmonid industry has made it clear to me that it expects significant penalties be applied to specific, serious breaches of the Act. And such penalties will act as a significant deterrent, given the potential financial gains that can be made by a company for breaches of management controls limiting the production of fish.

Madam Speaker, the *Marine Farming Planning Amendment Bill 2016* will introduce the head of power for the regulations to prescribe special penalties for offences under section 91 of the *Marine Farming Planning Act 1995* relating to the obstruction of the execution of a marine farming development plan.

The concept of special penalties, Madam Speaker, will apply to any serious breach of management controls where prosecution may occur.

The Bill proposes that for an offence under section 91(1) of the *Marine Farming Planning Act 1995*, where a person is found guilty, in addition to a penalty under subsection (1) or the payments of costs under subsection (2), the court must impose a special penalty of an amount that is either prescribed by regulation or calculated in accordance with a method prescribed by the regulations.

Madam Speaker, the intention is that once this legislation commences to prescribe by regulation a special penalty for one particular offence under section 91(1) of the *Marine Farming Planning Act 1995*. The special penalty will relate to a specific offence of exceeding the Total Permissible Dissolved Nitrogen Output allowed by a salmonid marine farming operation.

In 2009 my Department established limits on dissolved nutrient emissions from salmonid marine farming operations in the State's south east. The total permissible dissolved nitrogen output, generally referred to as the TPDNO, is an important component of these limits.

The TPDNO is derived from the nitrogen component of the feed fed to the fish, with each stakeholder's apportionment effectively limiting the biomass of fish that may be grown.

The TPDNO is determined and apportioned between the relevant stakeholders as stipulated within the Management Controls contained in the relevant Marine Farming Development Plan. Section 91(1) of the *Marine Farming Planning Act 1995*, legislates that a person must not do anything contrary to a Marine Farming Development Plan.

It is not proposed to cap the level of the proposed special penalty, because by their very nature special penalties are designed to be based on a consistent formula that can be applied to an individual situation that imposes a penalty proportionate to the financial advantage obtained from the breach, thus acting as a deterrent.

At this stage, Madam Speaker, there is no intention of prescribing more than one special penalty. However, the amendments proposed here today provide the head of power for other special penalties to be prescribed in the regulations, should the need arise.

Importantly, special penalties will not accrue demerit points so a company will not be at risk of being disqualified for accruing 200 demerit points because of a special penalty fine. It may however, if the Supreme Court considers an offence to be sufficiently serious, be disqualified as a result of the demerit points related to other penalties prescribed under the Act.

In addition, Madam Speaker, currently under the *Marine Farming Planning Act 1995*, infringement notices do not accrue demerit points. The amendments in the *Marine Farming Planning Amendment Bill 2016* will allow for infringement notices relating to an offence under section 91(1) to accrue one demerit point per one penalty unit.

From 1995 until 2007 infringement notices accrued demerit points, then the *Marine Farming Planning Amendment Act 2007* repealed that provision. This Bill provides that infringement notices will only accrue demerit points for breaches of section 91(1).

The inclusion of demerit points for infringement notices offences under section 91(1) is an important component to ensure timely compliance with the provisions of the Act.

Madam Speaker, in the situation where the TPDNO output is exceeded for a marine farming operation, leaving the fish in the water will allow this exceedance to continue and for the operator to gain an economic advantage as the fish continue to grow.

Issuing infringement notices and the associated demerit points in this situation will provide an effective deterrent as an operator would be disqualified once 200 demerit points have been accrued.

Lastly Madam Speaker, I wish to place on the record that in considering the amendments to the *Marine Farming Planning Act 1995* due recognition has been given to the impact on both the finfish and shellfish sectors.

I am aware of the need to ensure that there can be no unintended impacts from these amendments on the shellfish marine farming sector. This sector is protected by the provisions to prescribe the special penalties by regulation and these penalties can be specifically tailored for the finfish industry to which they are to be directed.

Madam Speaker, this Bill, will strengthen the enforcement mechanisms in the *Marine Farming Planning Act 1995* and provide a contemporary suite of sanctions that can address serious breaches of the Act.

These are necessary for ensuring that companies do not make significant financial gain from a breach of the regulatory framework that applies to the industry, thus disadvantaging other competitors and most importantly having unacceptable impacts on the marine environment which is a valuable community resource and must be protected for the benefit of future generations.

Madam Speaker, I commend the Bill to the House.