

## **DRAFT SECOND READING SPEECH**

**HON. JEREMY ROCKLIFF MP**

### ***Living Marine Resources Management Amendment Bill 2015***

*\*check Hansard for delivery\**

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

Madam Speaker, this Bill does two things.

First, it removes an uncertainty concerning vicarious liability in the *Living Marine Resources Management Act 1995*.

Vicarious liability is when an individual is made legally responsible for the actions of a second individual who is acting on his or her behalf.

Vicarious liability is needed in the Act because the owners of many fishing licences, for example, are allowed to have others use their licence.

The inclusion of vicarious liability provisions in the Act was considered important by the Parliament to provide a powerful deterrent to, for example, a licence holder directing a supervisor of their licence to commit an offence under the Act.

Without vicarious liability provisions, the licence holder would be able potentially to achieve significant personal gain without risk of prosecution for offences under the Act or to the licence cancellation provisions which the Act contains.

Moreover, without vicarious liability provisions, a licence holder could adopt a 'careless' approach to the activities of their supervisor if they were confident that they or their licence was at no risk from the actions of their agent.

The ability to avoid the full force of the Act, which has as its core the long-term sustainability of our valuable marine resources, by being at arm's length to an illegal activity, was considered unacceptable at the time the Act was passed by Parliament.

In a later amendment to the Act, however, an insertion was made in the Legislative Council relating to persons 'allegedly' committing various offences. This insertion has, in the opinion of the Director of Public Prosecutions, made the relevant sections relating to responsible persons completely unworkable in that consequences that were intended to follow an offence being proven would flow, nonsensically, from an untested allegation.

The fix in this case is an easy one in that removal of the inserted 'allegedly' to restore the original wording is all that is required to make these sections of the Act workable.

Second, this Bill reduces the fee payable by holders of abalone quota units under a so-called 'new' abalone deed of agreement.

An abalone deed of agreement is, in effect, a contract between an abalone quota holder and the Crown that allows commercial access to an amount of abalone in return for a fee.

There are two types of abalone deeds of agreement: a so-called 'old' deed agreed in 1994, and a so-called 'new' deed agreed in 2005.

Approximately 82% of abalone quota units are held under new deeds.

The Bill only relates to the fee paid under new deeds.

The fee in the new deed at present is 8.125% of the quarterly beach price for abalone.

Given the difficulties being experienced by the industry at present in the form of decline in both total allowable catch and beach price, it is an election commitment made by both sides of politics to provide an amount of relief from the fee.

Reduction of the fee would also bring it closer to amounts commonly paid by old deed holders.

It is also worthwhile noting that the fees paid in other Tasmanian fisheries are usually of the order of 5% of the fishery's GVP.

The fee proposed in the Bill is 7% of the quarterly average beach price for abalone.

Per annum, the Crown would thus forego approximately \$800,000 at present beach prices and total allowable catch settings.

I consider this amount is justified to assist the industry at this difficult time.

Madam Speaker, the Government fully supports the introduction of this Bill.

I commend this Bill to the House.