

MARINE FARMING PLANNING AMENDMENT BILL 2011

SECOND READING SPEECH

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

The *Marine Farming Planning Amendment Bill 2011* provides for improvements to several key parts of the existing Marine Farming Planning Act 1995. It will provide consistency between parts that does not exist at present, and it will improve provisions that relate to allocation of leases to reflect contemporary best practice in resource management.

The existing industry, potential future investors, the Planning Authority administering the Act, and the Minister of the day as a decision maker, will be able to achieve the objectives of the Act in a more effective and efficient manner, and with increased certainty for all entities. The Bill will result in no negative impacts to stakeholders in the industry, and will provide for seamless transition in relation to any relevant processes underway.

In fact, this reform will provide immediate benefit for an industry that has a stated intention to continue its strong growth. As Minister responsible for primary industries, I wish to make it clear that that the planning framework in place for marine farming should provide no impediment in itself to realising sustainable development – rather, it should further the objectives of future growth in the interests of all Tasmanians. To do that, the Act must be clear, consistent, and provide clarity in relation to assessment and allocation of public resources.

The Marine Farming Planning Act came into effect in 1995, and it had the following purpose and objectives. It aims to achieve well-planned, sustainable development of marine farming activities having regard to the integration of marine farming with other marine users, minimising any adverse impacts, setting aside areas for activities other than marine farming, considering land use, and taking account of the community's right to have an interest in those activities. The Act also provides that a person performing

any function or exercising any power under the Act should do so in a manner consistent with the objectives the Resource Management and Planning System of Tasmania.

In order to meet these objectives, the Act establishes several key entities that have powers and functions in relation to planning processes and decision-making. The Act establishes the Secretary of the Department of Primary Industries, Parks Water and Environment as the Planning Authority. The Act establishes an expertise and ability based Marine Farming Planning Review Panel to consider draft plans and draft amendments to plans, and to provide recommendations to the Minister in relation to such plans. The Act establishes the potential for the Minister to establish a Board of Advice and Reference to provide advice in relation to other parts of the Act involving the allocation of water identified for marine farming, and on any other matter that the Minister requires.

Section 9 of the Act makes it clear, among other things, that the Panel is to consider draft plans and draft amendments, and that the Panel is to **make recommendations** to the Minister in respect of draft plans and draft amendments.

Mr Speaker, I should at this point illustrate how successful this Act has been until now in delivering benefits to Tasmania, and in particular to regional and rural communities. But I do it with the caveat that Acts usually require reform to ensure currency with the changing requirements over time.

Tasmania's marine farming industry is, in many ways, the number one economic development success story of the past 20 years. It is an industry that, by having dedicated planning legislation ensuring the highest standards of environmental and resource consideration, is leading the country in primary industry growth. For example, Tasmanian marine farmers have recently hosted an international symposium attracting the world's leading researchers, farmers and policy makers. Alongside this, the Tasmanian salmon industry leads the country in finfish research and development, focussing on areas such as production capacity, animal health and disease management, nutrition, environmental best practice, and governance.

In 2010-11, the Tasmanian marine farming industry had a gross value to the State of \$419 million. This is a staggering indication of success, especially considering that commercial salmon farming only commenced in 1986 and the farming of Pacific oysters started twenty or so years prior to that. Provided the industry can be planned for in an efficient way, and the strong predicted market growth continues, recent trends would see the industry achieve a gross value in the next financial year of nearly \$450 million.

Thinking back to 1986, this would represent a production growth of more than one million dollars a month since that time. And while this number is impressive, I am perhaps more interested in what sits behind this number.

It is investment in businesses, including the businesses of the farmers, and then the businesses that they rely upon the farmers and supply them with goods and services.

It is jobs. And jobs predominantly in regional areas that continue to face threats from uncertainties and challenges in relation to global market forces. And at the other end of the supply chain, it is innovative marketing of quality produce sought the world over for its clean production credentials and health value.

Mr Speaker, Tasmania's marine farming industry is diverse. The oyster industry employs around 300 people directly and is worth around \$22 million. There is an important mussel industry that provides high quality product in innovative ways and provides significant employment on the east coast. There is also an expanding abalone marine farming industry producing product with a farm gate value of \$5 million per annum.

Meanwhile, the Tasmanian salmon and trout farming industry employs around 1400 people in farming and value adding operations and comprises about 90 per cent of the value of Tasmania's marine farming production being worth around \$379 million.

Tasmanian salmon is the largest volume and value marine farmed product in Australia. And it is worth considering this in a global context. In recent years, aquaculture has surpassed wild capture fisheries in terms of total

production towards providing the world's population with animal protein, and this trend is expected to continue as demand for aquaculture products grows.

Mr Speaker, there are several other parts to that success story that must be understood. Investment in marine farming is costly. For example, a typical salmonid marine farming lease will require many millions of dollars in investment just to get up and running, especially by the time you factor in planning costs, infrastructure, supply of smolt, and in Tasmania's progressive industry, being able to fund baseline surveys that form a cornerstone of subsequent regulatory compliance surveys.

The timing of this Bill is important. Those currently farming in the salmon industry in particular wish to expand, and while they will only ever be able to do this where it can be demonstrated as being sustainable, it is only right that the planning system should be clear and help provide certainty of process for them.

Mr Speaker, farmers are currently proposing an expansion in the western region of Tasmania, and I have approved the draft amendment to the Macquarie Harbour Marine Farming Development Plan 2005 being released for public consultation. I was particularly pleased to be able to do this, not just because it means that industry is planning continuing investment, but also because the process requires an opportunity for input by all Tasmanians. This cornerstone of public involvement in the management of their resources is what gives the industry and planning process legitimacy, and to use a more contemporary term, 'social licence'.

My outlook is towards the coming years, and the opportunity for growth. It is my view therefore that the planning system should be as efficient as possible to help ensure developments conform to the provisions of the Act and its sustainability principles. The future potential of the industry and jobs are my concern, and I want to ensure that red tape is constantly being challenged to remove it as an impediment to success.

Mr Speaker, this leads to the need to review and amend the existing legislation.

The need became clear through administrative uncertainty regarding the operation of the Act in early 2011, and a subsequent decision relating to a draft amendment that was made by the Marine Farming Planning Review Panel.

As I have stated, the Act provides for the Panel to provide advice to the Minister. However one provision in relation to key decisions at the end of planning processes does not provide for the Panel to provide advice to the Minister, but make its own decision. This is confusing as there are no appeal provisions provided with respect to that decision taken by the Panel.

Put simply, section 41 and 42 are inconsistent with section 9.

This inconsistency, highlighted by a decision of the Panel to reject a draft amendment, had never before been a practical issue, as that part of the Act had never been relied upon and tested prior to 2011. But through a draft amendment process initiated in 2010, this part become a consideration of the Panel, and as such caused significant uncertainty regarding how to proceed with a fair process.

Indeed, the absence of any appeal provisions relating to the decision taken by the Panel was a clear indication that the provision was, perhaps, not drafted as intended.

This Bill will help ensure that Tasmania remains at the forefront of contemporary and specific planning legislation for marine farming in Australia. It will keep Tasmania in the best position to take advantage of its natural advantages in marine resources nationally and globally, and it will support the State's Economic Development Plan and the Government's objective of Tasmania being an important food bowl for the nation.

Mr Speaker, I will now turn specifically to the legislation that I have brought before the House.

The Marine Farming Planning Amendment Bill 2011 serves two main purposes.

Firstly it provides, in relation to the consideration and decision-making on draft amendments, for the Panel to make recommendations, and for the Minister to have responsibility for making decisions, thereby ensuring consistency with the intended powers of the Panel.

And secondly, it provides for the Minister, to be able to consider inviting a person that has invested in a development, to apply for a lease that might result from the planning process, where appropriate, without being required to seek the advice of the Board of Advice and Reference.

Ensuring consistency of provisions relating to the function and powers of the Panel and Minister

Mr Speaker, I will now highlight some of the provisions in the Bill that address the first purpose.

The provisions relating to approval to commence amending a marine farming development plan will provide that the Panel can only recommend that a plan be amended, while it is the Minister that must make the final determination and approve the Panel directing the Planning Authority to commence working on such a task. The relevant provisions also provide that a person that has requested that an amendment be made, to have appeal provisions in the event that the Minister does not give approval.

Following on from the above, the provisions relating to the consideration of a draft amendment are also changed to provide absolute clarity as to the requirements of, and options available to the Panel. The Panel may determine that an amendment either be made, or that it be modified, or that the Planning Authority modify it, or that it be rejected.

The provisions provide that if the Panel determines that a draft amendment is to be modified, then the draft may require further consideration under the Act as if it were a new draft amendment, or if the modifications are minor, it may simply require consideration of the Panel and the Minister.

Upon receiving notification of the Panel's determination, the Minister may approve a draft amendment, give approval with alterations, or reject it. However, to ensure that matters of a nature that may require further information or advice can be considered, prior to any decision being made,

there are provisions that provide for the Minister to seek further advice in advance of a decision, and to refer the draft amendment back to the Panel indicating any concerns with it.

The result of this is that powers and functions are clearly identified for the Panel and Minister, and the consideration and decision-making processes are comprehensive and robust, as is required for current day amendments that are extremely complex and may require iterative consideration. I should also point out, all of these processes follow from public consultation in line with best practice resource management and planning.

Establishing the ability for the Minister to consider allocation of a lease to the person that has incurred the development risk

Mr Speaker, I will now briefly outline several provisions that relate to the second purpose of the Bill

Working within the existing provisions of the Act, it is now the responsibility of a proponent to prepare an Environmental Impact Statement that is required to accompany a draft amendment they have requested. The reason for this is two-fold.

First, now that the industry is mature, it is appropriate that private investors bear the cost and risk of preparing such work to support their proposals.

Second, Mr Speaker, the work involved is now many more times complex than when marine farm planning first commenced in Tasmania, and as such requires resources and expertise that are only practically provided by private sector investment. Certainly, the taxpayer should not be funding major bodies of work where the benefit may ultimately reside with an individual that has not assumed any of the development risk.

However, given this requirement of proponents, it is only right that they will be more certain of being the beneficiaries of their risk. New provisions provided by this Bill will provide for the Minister to consider inviting a private person, where they have requested a draft amendment, to apply for a lease in respect to the draft amendment.

To strengthen the provisions relating to open allocation and advice from the Board of Advice and Reference, the Minister must seek its advice where an amendment is the result of a public initiated planning process. This ensures

that private investment risk can be rewarded, and that public investment will remain open to public access.

This will significantly increase investment confidence in the industry by reducing allocation uncertainty. It will also significantly simplify and potentially speed up allocation processes, further reducing investment cost. In an industry where there is an annual production cycle, I must make it very clear, allocation of a lease and authority to commence farming may be provided one month too late, thereby leading to a whole year of lost production.

I do not want to be responsible for administering an Act where this is more likely than otherwise due to allocation processes that were conceived nearly 20 years ago, and that assumed all planning costs would be met by the public purse.

Mr Speaker, in conclusion, this Bill provides for the continuing development of marine farming in Tasmania, by ensuring the relevant planning Act is clear and effective and its application, and by providing confidence for those that might invest in the industry into the future.

Mr Speaker, I move the second reading of this Bill and commend the Bill to the House.
