



HOUSE OF ASSEMBLY

SESSION OF 2022

(THIRD SESSION OF THE FIFTIETH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 16

TUESDAY, 25 OCTOBER 2022

- 1 The House met at Ten o'clock a.m.
- 2 ACKNOWLEDGEMENT OF TRADITIONAL PEOPLE. - The Speaker made a statement acknowledging the traditional people of the land.
- 3 PRAYERS AND REFLECTION. – The Speaker read Prayers.
- 4 QUESTIONS SEEKING INFORMATION. – In accordance with Standing Order No. 43, Questions without notice commenced.
- 5 MEMBER SUSPENDED. – In accordance with Standing Order 149, the Speaker directed the Honourable Member for Braddon, Dr *Broad*, to withdraw from the House until the conclusion of the debate on the Matter of Public Importance owing to repeated interjections.
- 6 QUESTIONS SEEKING INFORMATION. – Questions without notice continued.
- 7 MEMBER SUSPENDED. – In accordance with Standing Order 149, the Speaker directed the Honourable Member for Bass, Ms *Finlay*, to withdraw from the House until the conclusion of the debate on the Matter of Public Importance owing to repeated interjections.
- 8 QUESTIONS SEEKING INFORMATION. – Questions without notice continued and concluded.
- 9 PAPERS. – The Premier laid upon the Table of the House the following Papers:
 - (1) Tasmanian Community Fund: Annual Report 2022.
 - (2) Tourism Tasmania: Annual Report 2021-22.
- 10 PAPERS. – The Deputy Premier laid upon the Table of the House the following Papers:-
 - (1) TASRAIL: Annual Report 2021-22.
 - (2) MAIB: Annual Report 2021-2022.
 - (3) TasPorts: Annual Report 2021-22.
 - (4) Tasmanian Audit Office: Annual Report 2021-22.
 - (5) Local Government Act 1993: Northern Midlands Council, Footpath Trading By-Law No. 1 of 2022.
- 11 PAPERS. – The Minister for Parks laid upon the Table of the House the following Papers:-
 - (1) Valuation of Land Act 2001:

- (a) Valuation of Land Regulations 2022 (Statutory Rules 2022, No. 62);
- (b) Valuation of Land (Tender Committee) Regulations 2022 (Statutory Rules 2022, No. 63)
- (2) Royal Tasmanian Botanical Gardens: Annual Report 2021-2022.
- (3) Office of Tasmanian Assessment, Standards and Certification: Annual Report 2021-22.
- (4) Environment Protection Authority: Annual Report 2021-2022.

12 PAPERS. – The Clerk of the House laid upon the Table of the House the following Paper:-

Parliamentary (Disclosure of Interests) Act 1996: Variation Return for the Member for Lyons, Mr *Tucker*.

13 LEAVE TO MAKE MOTION WITHOUT NOTICE. - *Ordered*, That the Premier have leave to make a Motion without Notice. (The Premier)

14 THE LATE ANDREW PAUL HARRISS: CONDOLENCE RESOLUTION. - *Resolved, nemine contradicente* - That this House expresses its deep regret at the death on 1 October 2022 of Andrew Paul Harriss, a Minister of the Crown from 2014 to 2016, Member of the Legislative Council for the Division of Huon from 1996 to 2014, and Member of this House for the Division of Franklin from 2014 to 2016, and places on record its appreciation of his service to this State, and further, that this House respectfully tenders to his family its sincere sympathy in their bereavement.

Ordered, That a copy of the foregoing Resolution be forwarded to the family of the late Paul Harriss. (The Premier)

15 MATTER OF PUBLIC IMPORTANCE: CAM RIVER BRIDGE. – Ms *Dow* in accordance with Standing Orders, moved - That the House take note of the following matter:

Cam River Bridge.

And the Question being proposed;

A Debate arose thereupon.

And the Question being put;

It was resolved in the Affirmative.

16 BILL NO. 43. - The Order of the Day being read for resuming the adjourned Debate on the Question proposed on Tuesday, 18 October 2022 - That the Justice and Related Legislation Miscellaneous Amendments Bill 2022 be now read the Second time;

And the Question being again proposed;

The House resumed the said adjourned Debate.

17 SUSPENSION OF SITTING. - At One o'clock the Speaker left the Chair.
At half-past Two o'clock the Speaker resumed the Chair.

16 BILL NO. 43. - And the Question being again proposed;

The House resumed the Debate.

And the Question being put;

Ordered, That the Bill be now read the Second time.

And the Bill was, accordingly, read the Second time, and committed to a Committee of the whole House. And the Speaker having left the Chair, the House resolved itself into the said Committee.

(In the Committee)

Mrs *Alexander* took the Chair.

Clauses 1 to 8 agreed to.

New Clause A was brought up by Ms *Haddad* and read for the First Time as follows:-

“ A. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

(a) by omitting the definition of “spouse” and substituting the following definition:

“spouse” includes the other party of a significant relationship, within the meaning of section 4 of the *Relationships Act 2003*, whether or not the significant relationship of the other party is registered under Part 2 of that Act;”

Question put – that New Clause A be read a Second time and made a part of the Bill to follow Clause 8;

It passed in the Negative.

New Clause B was brought up by Ms *O’Connor* and read a First Time as follows:-

“B. Section 3A amendment (Meaning of senior next of kin)

Section 3A of the Principal Act is amended as follows:

(a) by renumbering the section as subsection (1);

(b) by inserting the following subsection after subsection (1):

(2) A person making a decision under this Act as to whether a person is the senior next of kin of a deceased person must not discriminate against a person on the grounds that the person –

(a) is in a same-sex relationship; or

(b) is in a significant relationship, within the meaning of the *Relationships Act 2003* with another person but is not married to the other person; or

(c) is in a significant relationship, within the meaning of the *Relationships Act 2003*, with another person but the relationship is not registered under that Act”

Question put – that New Clause B be read a Second time and made a part of the Bill to follow Clause 8.

The Committee divided.

AYES 11

NOES 11

Dr Broad

Ms Archer

Ms Butler

Mr Barnett

Ms Dow

Mr Ellis

Ms Finlay

Mr Ferguson

Ms Johnston

Mr Jaensch

Mr O'Byrne

Ms Ogilvie

Ms O'Connor

Mr Rockliff

Ms White

Mr Shelton

Dr Woodruff

Mr Tucker

Ms Haddad (Teller)

Mr Young (Teller)

PAIRS

Mr Winter

Mr Street

CHAIR OF COMMITTEES GIVES CASTING VOTE. – The Chair of Committees said: “The numbers being equal, I cast my vote with the Noes”.

So it passed in the Negative.

The Chair of Committees took the Chair.

New Clause C was brought up by *Ms Haddad* and read a First Time as follows:-

“C. Section 3B inserted new line after section 3A of the Principal Act, the following section is inserted in Part 1:

3B. Determination of spouse of deceased person

- (1) A person may appeal to the Supreme Court against a decision made by a person under this Act as to who is the senior next of kin of a deceased person for the purposes of this Act.
- (2) If an appeal is made under subsection (1) in relation to a decision made by a person, the Supreme Court may –
 - (a) if the Supreme Court considers that the decision was made in accordance with this Act, affirm the decision; or
 - (b) if the Supreme Court considers that the decision was not made in accordance with this Act –
 - (i) quash the decision; or
 - (ii) refer the matter back to the person, to make the decision again in accordance with the directions of the Court.
- (3) If an appeal is made under subsection (1) against a decision made by a person under this Act as to who is the senior next of kin of a deceased person for the purposes of this Act –

(a) the decision is of no effect until the appeal has been determined and, if the Court has determined the appeal under subsection (2)(b), is of no effect after the Court's decision is made; and

(b) a decision may not be made under this Act as to who is the senior next of kin of the deceased person for the purposes of this Act until the Court's decision is made"

Question put – that New Clause C be read a Second time and made a part of the Bill to follow Clause 8;

The Committee divided.

AYES 11

Ms Butler
Ms Dow
Ms Finlay
Ms Haddad
Ms Johnston
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms White
Dr Woodruff
Dr Broad (Teller)

NOES 11

Mrs Alexander
Ms Archer
Mr Barnett
Mr Ellis
Mr Ferguson
Mr Jaensch
Ms Ogilvie
Mr Rockliff
Mr Shelton
Mr Wood
Mr Young (Teller)

PAIRS

Mr Winter

Mr Street

CHAIR OF COMMITTEES GIVES CASTING VOTE. – The Chair of Committees said: "The numbers being equal, I cast my vote with the Noes".

So it passed in the Negative.

New Clause D was brought up by *Ms O'Connor* and read a First Time as follows:-

"D. Section 38A inserted

Before section 39 of the Principal Act, the following section is inserted in Part 5:

38A. Application for autopsy report

(1) If –

- (a) a coroner has directed that an autopsy be performed on a deceased person; and
- (b) the coroner has received a report in relation to that autopsy; and

- (c) any investigations under this Act in respect of that autopsy have concluded –

the senior next of kin, in respect of that deceased person, may request the coroner provide them with a copy of the report in relation to that autopsy.

- (2) The coroner must not, without reasonable grounds, refuse a request under subsection (1).”

Question put – that New Clause D be read a Second time and made a part of the Bill to follow Clause 8;

It passed in the Negative.

Clause 9 read.

Amendment proposed (Ms O'Connor)

Page 7, proposed new section 58B, after “ensure that”.

Insert “information as to the rights to appeal against decisions under this Act and”.

Question put – That the Amendment be agreed to;

It passed in the Negative.

Clause 9, as read, agreed to.

Clauses 10 to 20 agreed to.

Title agreed to.

Bill to be reported without Amendment.

The House being resumed, Mr *Tucker* reported that the Committee had gone through the Bill, and had directed him to report the same to the House without Amendment.

Ordered, That the Bill be now read the Third time.

And the Bill was, accordingly, read the Third time.

19 BILL NO. 43. - A Message to the Legislative Council. -

MR PRESIDENT

The House of Assembly hath passed a Bill, intituled “A Bill for an Act to amend the Animal Welfare Act 1993, the Births, Deaths and Marriages Registration Act 1999, the Coroners Act 1995, the Criminal Code Act 1924, the Dangerous Criminals and High Risk Offenders Act 2021, the Monetary Penalties Enforcement Act 2005, the Sex Industry Offences Act 2005 and the Traffic Act 1925”,

to which the House desires the concurrence of the Legislative Council.

House of Assembly, 25 October 2022.

MARK SHELTON, *Speaker.*

20 SITTING TIMES. - *Ordered*, Pursuant to Sessional Order 18A, that for this day's sitting the House not stand adjourned at Six o'clock and that the House continue to sit past Six o'clock (The Deputy Premier)

21 BILL NO. 46. - The Environmental Management and Pollution Control Amendment Bill 2022 was, according to Order, read the Second time, and committed to a Committee of the whole House.

And the Speaker having left the Chair, the House resolved itself into the said Committee.

(In the Committee)

Mr *Wood* took the Chair.

Clauses 1 to 4 agreed to.

The Chair of Committees resumed the Chair.

New Clause A was brought up by Dr *Woodruff* and read a First Time as follows:-

"A. Section 3A inserted

The following section is inserted after section 3 of the Principal Act –

3A. Principles to be observed

In the interpretation of this Act, regard is to be had to the following principles –

- (a) A decision, action or thing directed towards minimising harm or a risk of harm to human health, property or the environment should be proportionate to the harm or risk of harm that is being addressed; and
- (b) Prevention of harm to human health and the environment is preferred to remedial or mitigation measures; and
- (c) Persons who cause environmental harm, or benefit from activities that cause environmental harm, should bear the cost of containment, avoidance and abatement; and
- (d) Actions or decisions under this Act should be based on the best available evidence in the circumstances that is relevant and reliable; and
- (e) Paragraph (d) notwithstanding, if there exist threats of serious environmental harm, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or minimise those threats."

Question put – that New Clause A be read a Second time and made a part of the Bill to follow Clause 4.

The Committee divided.

AYES 3

Ms Johnston
Dr Woodruff
Ms O'Connor (Teller)

NOES 19

Mrs Alexander
Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Ms White
Mr Wood
Mr Young (Teller)

So it passed in in the Negative.

Clause 5 agreed to.

New Clause B was brought up by *Dr Woodruff* and read a First Time as follows:-

“B. Section 13A amended (Membership of Board)

Section 13A of the Principal Act is amended by omitting paragraph (c) from subsection (1) and substituting the following paragraphs:

- (c) a person with practical knowledge of, and experience in, environmental management in either industry, commerce or economic development; and
- (ca) a person nominated by the *Aboriginal Heritage Council*; and”

Question put – that New Clause B be read a Second time and made a part of the Bill to follow Clause 5;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 20

Mrs Alexander
Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Ms O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Ms White
Mr Winter
Mr Wood
Mr Young
Mr O'Byrne (Teller)

So it passed in in the Negative.

New Clause C was brought up by *Dr Woodruff* and read a First Time as follows:-

“C. Section 14 amended (Functions and powers of Board)

Section 14 of the Principal Act is amended by –

- (a) omitting paragraph (a) from subsection (1) and substituting:
 - (a) to protect the environment of Tasmania; and
- (b) omitting paragraphs (d) and (e) from subsection (1) and substituting:
 - (c) to advise the Minister, on the request of the Minister or at the discretion of the Board, on any matter that may significantly affect the achievement of the objectives of this Act.”

Question put – That New Clause C be read a Second time and made a part of the Bill to follow Clause 5;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 20

Mrs Alexander
Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Ms White
Mr Winter
Mr Wood
Mr Young (Teller)

So it passed in the Negative.

Clause 6 read.

Mrs Alexander took the Chair.

Amendment proposed (*Dr Woodruff*)

Page 5.

Leave out everything after “Section”.

Insert instead “15, 15A, 15B and 15C of the Principal Act are repealed.”

Question put – That the Amendment be agreed to;

The Committee divided.

AYES 3

Ms *O'Connor*
Dr *Woodruff*
Ms *Johnston* (Teller)

NOES 19

Ms *Archer*
Mr *Barnett*
Dr *Broad*
Ms *Butler*
Ms *Dow*
Mr *Ellis*
Mr *Ferguson*
Ms *Finlay*
Mr *Jaensch*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *Ogilvie*
Mr *Rockliff*
Mr *Shelton*
Mr *Tucker*
Ms *White*
Mr *Winter*
Mr *Wood*
Mr *Young* (Teller)

So it passed in the Negative.

Clause 6, as read, agreed to.

Clauses 7 to 9 agreed to.

New Clause D was brought up by Dr *Woodruff* and read a First Time as follows:-

“D. Section 22 amended (Registers of environmental management and enforcement instruments)

Section 22 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection –

(2) A register under subsection (1) or (1A) must be published in a form that is accessible to the public.”

Question put – that New Clause D be read a Second time and made a part of the Bill to follow Clause 9;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 19

Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Tucker
Mr Shelton
Ms White
Mr Winter
Mr Wood
Mr Young (Teller)

So it passed in the Negative.

Clause 10 read.

Amendment proposed (Dr Woodruff)

Page 8.

Leave out everything after “amended”.

Insert instead the following –

“by:

- (a) inserting the following paragraph before paragraph (a) in subsection (4) –
 - (aa) in a manner, and for a purpose, consistent with this Act; or
- (b) by inserting the following subsections after subsection (4) –
 - (5) This section does not apply in relation to any information that is, under section 23AA(2), published, provided, or made available for viewing by members of the public or a person or body.
 - (6) No proceedings may be brought against a person for an act or omission, or purported act or omission, under subsection (4), without the leave of the Supreme Court.

- (7) The Supreme Court is not to give leave under subsection (6) unless it is satisfied that there is substantial ground for the contention that the person to be proceeded against has acted, or omitted to act, in bad faith.”

Question put – That the Amendment be agreed to;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 19

Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Mr Tucker
Ms White
Mr Winter
Mr Wood
Mr Young (Teller)

So it passed in the Negative.

Clause 10, as read, agreed to.

New Clause E was brought up by *Dr Woodruff* and read a First Time as follows:-

“E. Section 23A substituted

Section 23A of the Principal Act is omitted and the following sections substituted –

23A. General environmental duty

- (1) A person who is engaging in an activity that may give rise to risks of environmental harm or environmental nuisance must minimise those risks, so far as reasonably practicable.
- (2) A person commits an offence if the person contravenes subsection (1) in the course of conducting a business or an undertaking.

Penalty: In the case of a natural person, 2000 penalty units;

In the case of a body corporate, 10 000 penalty units.

- (3) An offence under subsection (2) is an indictable offence punishable under the *Criminal Code* or may be tried summarily.
- (4) Without limiting subsection (1), a person who is conducting a business or an undertaking contravenes that subsection if the person fails to do any of the following in the course of conducting the business or the undertaking, so far as reasonably practicable –
 - (a) use and maintain plant, equipment, processes and systems in a manner that minimises risks of environmental harm;
 - (b) use and maintain systems for identification, assessment and control of risks of environmental harm that may arise in connection with the activity, and for the evaluation of the effectiveness of controls;
 - (c) use and maintain adequate systems to ensure that if a risk of environmental harm were to eventuate, its harmful effects would be minimised;
 - (d) ensure that all substances are handled, stored, used or transported in a manner that minimises risks of environmental harm or environmental nuisance;
 - (e) provide information, instruction, supervision and training to any person engaging in the activity to enable those persons to comply with the duty under subsection (1).
- (5) Without limiting subsection (1), a person who is conducting a business or an undertaking and engaging in an activity that involves the design, manufacture, installation or supply of a substance, plant, equipment or structure, contravenes that subsection if the person fails to do any of the following in the course of conducting the business or the undertaking and engaging in the activity, so far as reasonably practicable –
 - (a) minimise risks of environmental harm or environmental nuisance arising from the design, manufacture, installation or supply of the substance, plant, equipment or structure when the substance, plant, equipment or structure is used for a purpose for which it was designed, manufactured, installed or supplied;

- (b) provide information regarding the purpose of the substance, plant, equipment or structure and any conditions necessary to ensure it can be used in a manner that complies with the duty under subsection (1).

23B. Multiple contraventions of general environmental duty

- (1) This section applies to—
 - (a) a contravention of the general environmental duty; or
 - (b) a contravention of the general environmental duty for which an officer of a body corporate (including a body corporate representing the Crown) is liable.
- (2) Subject to any contrary court order, 2 or more contraventions may be charged as a single offence if the contraventions arise out of the same factual circumstances.
- (3) If 2 or more contraventions are charged as a single offence, a single penalty only may be imposed in respect of the contraventions.

23C. Aggravated breach of the general environmental duty

- (1) A person commits an offence if—
 - (a) the person intentionally or recklessly contravenes the general environmental duty; and
 - (b) the contravention results in, or is likely to result in, material environmental harm or serious environmental harm; and
 - (c) the person knew or reasonably should have known that the contravention would result in, or be likely to result in, material environmental harm or serious environmental harm.

Penalty: In the case of a natural person, 4000 penalty units or 5 years imprisonment or both;

In the case of a body corporate, 20 000 penalty units.

- (2) An offence under subsection (1) is an indictable offence punishable under the *Criminal Code* or may be tried summarily.”

Question put – that New Clause E be read a Second time and made a part of the Bill to follow Clause 10.

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 19

Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Mr Tucker
Ms White
Mr Winter
Mr Wood
Mr Young (Teller)

So it passed in the Negative.

Clause 11 agreed to.

New Clause F was brought up by *Dr Woodruff* and read a First Time as follows:-

“F. Section 24 amended (Assessment of permissible level 1 activities)

Section 24 of the Principal Act is amended by inserting after subsection (1) the following subsection –

(1AA) If the director is satisfied that requiring the planning authority to refer an application to the Board under subsection (1) would advance the objectives set out in Schedule 1, the director must require the planning authority to refer the application to the Board under subsection (1).”

Question put – that New Clause F be read a Second time and made a part of the Bill to follow Clause 11;

The Committee divided.

AYES 3

Ms *O'Connor*
Dr *Woodruff*
Ms *Johnston* (Teller)

NOES 19

Ms *Archer*
Mr *Barnett*
Dr *Broad*
Ms *Butler*
Ms *Dow*
Mr *Ellis*
Mr *Ferguson*
Ms *Finlay*
Ms *Haddad*
Mr *Jaensch*
Mr *O'Byrne*
Ms *Ogilvie*
Mr *Rockliff*
Mr *Shelton*
Mr *Tucker*
Ms *White*
Mr *Winter*
Mr *Wood*
Mr *Young* (Teller)

So it passed in the Negative.

Clause 12 agreed to.

New Clause G was brought up by Dr *Woodruff* and read a First Time as follows:-

“G. Section 35 amended (Financial assurance to secure compliance with Act)

Section 35 is amended by inserting after subsection (2) the following subsection –

(2A) The Board must require the lodgment of a bond or pecuniary sum if satisfied that a matter contained in subsection (2)(a), (b) or (c) applies.”

Question put – that New Clause G be read a Second time and made a part of the Bill to follow Clause 12;

The Committee divided.

AYES 3

NOES 19

Ms Johnston
Ms O'Connor
Dr Woodruff (Teller)

Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Mr Tucker
Ms White
Mr Winter
Mr Wood
Mr Young (Teller)

So it passed in the Negative.

Clauses 13 to 14 agreed to.

New Clause H was brought up by *Dr Woodruff* and read a First Time as follows:-

“H. Section 42J amended (Grant of licence by Director)

Section 42J is amended by inserting after subsection (1) the following subsections –

- (1A) Before granting, or refusing to grant, an environmental licence under subsection (1)(a) or (b) respectively, the Director must cause an exhibition notice in relation to the application to be published.
- (1B) An exhibition notice under subsection (1A) is to –
 - (a) Be published –
 - (i) once before, and once within 7 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania; and
 - (ii) on the Authority's website.
 - (b) Specify the exhibition period in relation to the application; and
 - (c) Specify an electronic address where the application is available for viewing and downloading by the public; and

- (d) Specify another method for accessing and viewing the application, available to the public other than that provided under paragraph (c); and
- (e) contain an invitation to all persons and bodies to make to a representation in relation to the application, by submitting the representation to –
 - (i) an electronic address specified in the notice; or
 - (ii) by another means other than that provided under subparagraph (i).
- (1C) The exhibition period is to be for a period determined by the Director, no shorter than 20 days.
- (1D) A person or body may, within the exhibition period in respect of an application, make a representation in respect of that application in a manner described in the exhibition notice in respect of that application.
- (1E) Before granting, or refusing to grant, an environmental licence under subsection (1)(a) or (b) respectively, the Director must consider any representations made under subsection (1D).”

Question proposed – that New Clause H be read a Second time and made a part of the Bill to follow Clause 14;

The Chair of Committees resumed the Chair.

Question put – that New Clause H be read a Second time and made a part of the Bill to follow Clause 14;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 19

Mrs Alexander
Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Ms White
Mr Winter
Mr Wood
Mr Young (Teller)

So it passed in the Negative.

New Clause I was brought up by Dr Woodruff and read a First Time as follows:-

“I. Section 42K amended (Grant of licence by Board)

- (3) As soon as practicable after the Board has completed under section 25, 25A or 27AA(3) an assessment in relation to an EL activity, and the exhibition period under subsection (3C) in respect of the relevant application has concluded, the Board must –
 - (a) grant an environmental licence in relation to the activity; or
 - (b) refuse to grant an environmental licence in relation to the activity.
- (3A) Before granting, or refusing to grant, an environmental licence under subsection (3)(a) or (b) respectively, the Board must cause an exhibition notice in relation to the relevant application to be published.
- (3B) An exhibition notice under subsection (3A) is to –
 - (a) be published –
 - (i) once before, and once within 7 days after, the first day of the exhibition period, in a newspaper that is published, and circulates generally, in Tasmania; and
 - (ii) on the Authority's website.

- (b) specify the exhibition period in relation to the relevant application; and
 - (c) specify an electronic address where the relevant application is available for viewing and downloading by the public; and
 - (d) specify another method for accessing and viewing the relevant application, available to the public other than that provided under paragraph (c); and
 - (e) contain an invitation to all persons and bodies to make to a representation in relation to the relevant application, by submitting the representation to –
 - (i) an electronic address specified in the notice; or
 - (ii) by another means other than that provided under subparagraph (i).
- (3C) The exhibition period in respect of a relevant application is to be for a period determined by the Board, no shorter than 20 days.
- (3D) A person or body may, within the exhibition period in respect of a relevant application, make a representation in respect of the relevant application in a manner described in the exhibition notice in respect of the relevant application.
- (3E) Before granting, or refusing to grant, an environmental licence under subsection (3)(a) or (b) respectively, the Board must consider any representations made under subsection (3D).”

Question put – that New Clause I be read a Second time and made a part of the Bill to follow Clause 14.

Amendment, *by leave*, withdrawn.

Clauses 15 and 16 agreed to.

New Clause J was brought up by Dr *Woodruff* and read a First Time as follows:-

“J. Section 48 amended (Civil enforcement proceedings)

Section 48 is amended by –

- (a) inserting after paragraph (f) of subsection (5) the following paragraphs –
 - (fa) require the payment of a monetary benefit order under section 48A;
 - (fb) issue an adverse publicity order under section 48B;

- (fc) require the respondent to undertake an environmental audit;
- (b) inserting after subsection (9) the following subsection –
 - (9A) Where the Appeal Tribunal makes an order under subsection (5)(fc), section 30 applies –
 - (a) with the exception of subsection (5); and
 - (c) as if a reference to the Board were a reference to the Appeal Tribunal.”

Question put – that New Clause J be read a Second time and made a part of the Bill to follow Clause 16;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 20

Mrs Alexander
Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Mr O'Byrne
Ms O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Ms White
Mr Winter
Mr Wood
Mr Young (Teller)

So it passed in the Negative.

New Clause K was brought up by *Dr Woodruff* and read a First Time as follows:-

“K. Section 48A substituted

Section 48A is repealed and the following sections are substituted –

48A. Monetary benefit orders

- (1) The Appeal Tribunal may order the person to pay an amount not exceeding the amount that the Appeal

Tribunal is satisfied, on the balance of probabilities, represents the amount of any monetary benefits acquired by the person, or accrued or accruing to the person, as a result of the commission of the offence or contravention in relation to which the order is made.

- (2) When determining an amount that the person must pay under an order under subsection (1), the Appeal Tribunal may take into account —
 - (a) the person's financial circumstances; and
 - (b) any amount submitted to the Appeal Tribunal by the Authority under subsection (3).
- (3) The Authority may submit to the Court the amount the Appeal Tribunal considers to be a reasonable estimate of the amount of monetary benefits acquired by the person, or accrued or accruing to the person, as a result of the commission of the offence or contravention in relation to which the order under subsection (1) is sought, as determined in accordance with—
 - (a) a prescribed guideline, method or protocol; or
 - (b) any other method the Authority considers appropriate.
- (4) For the purposes of subsection (1), the Appeal Tribunal may assume that an amount represents the amount of any monetary benefits acquired by a person, or accrued or accruing to the person, as a result of the commission of an offence or contravention if—
 - (a) the Authority submits that amount to the Appeal Tribunal under subsection (3); and
 - (b) the Authority determined that amount in accordance with a prescribed guideline, method or protocol.
- (5) Nothing in this section or an order made under subsection (1) limits or otherwise affects the operation of Part 2 of the Crime (Confiscation of Profits) Act 1993.
- (6) Any amount received as the payment of an order made under subsection (1) must be paid into the Public Account.
- (7) In this section—

monetary benefits means monetary, financial or economic benefits and includes any monetary, financial or economic benefit the person acquires or accrues by avoiding or delaying the person's compliance with the provision, condition or duty to which

the person's offence or contravention relates.

48B. Adverse publicity orders

The Appeal Tribunal may order the person to do one or more of the following –

- (a) take any specified action that the Appeal Tribunal considers reasonably necessary to publicise –
 - (i) the person's offence or contravention; or
 - (ii) any impacts on human health or the environment or other consequences arising or resulting from the offence or contravention; and
 - (iii) any penalties imposed, or other orders made, as a result of the commission of the offence or contravention; and
 - (iv) any additional information the Appeal Tribunal considers appropriate;
- (b) take any specified action that the Appeal Tribunal considers reasonably necessary to notify a specified person or class of person of the matters listed in paragraph (a).”

Question put – that New Clause K be read a Second time and made a part of the Bill to follow Clause 16;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 20

Mrs Alexander
Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Ms O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Ms White
Mr Winter
Mr Wood
Mr Young
Mr O'Byrne (Teller)

So it passed in the Negative.

Clauses 17 and 18 agreed to.

New Clause L was brought up by *Dr Woodruff* and read a First Time as follows:-

“L. Schedule 1 amended (Objectives)

Clause 3 of Schedule 1 to the Principal Act is amended by inserting the following paragraph after paragraph (j):

(ja) to uphold the rights set out in the United Nations
Declaration on the Rights of Indigenous Peoples; and”

Question put – that New Clause L be read a Second time and made a part of the Bill to follow Clause 18;

The Committee divided.

AYES 3

Ms O'Connor
Dr Woodruff
Ms Johnston (Teller)

NOES 20

Mrs Alexander
Ms Archer
Mr Barnett
Dr Broad
Ms Butler
Ms Dow
Mr Ellis
Mr Ferguson
Ms Finlay
Ms Haddad
Mr Jaensch
Ms O'Byrne
Ms Ogilvie
Mr Rockliff
Mr Shelton
Ms White
Mr Winter
Mr Wood
Mr Young
Mr O'Byrne (Teller)

So it passed in the Negative.

Clause 19 agreed to.

Title agreed to.

Bill to be reported without Amendment.

The House being resumed, Mr *Tucker* reported that the Committee had gone through the Bill, and had directed him to report the same to the House without Amendment.

Ordered, That the Bill be now read the Third time.

And the Bill was, accordingly, read the Third time.

22 BILL NO. 46. - A Message to the Legislative Council. -

MR PRESIDENT

The House of Assembly hath passed a Bill, intituled "A Bill for an Act to amend the Environmental Management and Pollution Control Act 1994",

to which the House desires the concurrence of the Legislative Council.

House of Assembly, 25 October 2022.

MARK SHELTON, *Speaker*.

23 ADJOURNMENT. – A Motion being made - That the House do now adjourn (The Deputy Premier)

The Speaker proposed – That the House do now adjourn and called for issues to be raised;

The House adjourned at fifty-four minutes past Nine o'clock.

SHANE DONNELLY, *Clerk of the House*.

MEMBERS. - All present during the day except Mr *Street*.

The Minister for Primary Industries and Water, Minister for Disability Services, Minister for Women and Minister for the Prevention of Family Violence attended Question Time.