

PETROLEUM LEGISLATION AMENDMENT BILL 2018

(Serial 76)

Mr KIRBY (Primary Industry and Resources): The committee's detailed consideration of the bill and its assessment of the submissions received is important work that assists our parliament in our legislative duties. The scrutiny committee tabled its report to parliament on 12 March 2019 and made 11 recommendations. The government's response to those recommendations is we will be accepting 10 and not accepting one recommendation, which I will explain about now in detail.

Recommendation 1 was simply to pass the bill with appropriate amendments. I thank the scrutiny committee again for all its hard work and for that recommendation.

Recommendation 2 was to amend the definition of 'hydraulic fracturing' to include, amongst other things, the defined term of petroleum. I think we all understand those systematic approaches to make sure we have definitions right to make sure that when anybody picks up an act, bill, piece of legislation or a regulation which sits within, the common wording and definitions make everybody's job easier.

Our government accepts the recommendations, and I do note that it is proposed that defined term of petroleum is also amended to be consistent with this bill.

Recommendation 3 sought for the fit and proper person test to also include consideration of an associated entity. I know that this one of the things that the department and everybody involved has been working extremely hard on, to make sure that they get this wording exactly right. This change is to be implemented through the amending the proposed section 15A(1), replicating the policy position taken elsewhere in the bill.

Recommendation 4 amends so that the minister cannot disregard certain matters. This change will be implemented through the amendments proposed today.

Recommendation 5 seeks to ensure compliance with the prescribed legislation. As part of the amendments proposed today, this change will be implemented in the redraft of section 15A(1) as well.

Recommendation 6 notes some further legislation should be included in the prescribed legislation. The legislation recommended by the scrutiny committee is to be included in the list of prescribed legislation and prescribed environment legislation respectively. Daily Hansard – Tuesday 19 March 2019

Recommendation 7 noted that the certain additional decisions should be included in the list of decisions available for judicial review. That recommendation is accepted and will be implemented.

Recommendation 8 is the only scrutiny committee recommendation that will not be implemented. Advice received by government has indicated that this change, updating the schedule through legislation, would not be appropriate.

There are several points behind this decision, firstly, to change and act requires parliamentary approval which is more transparent. Whereas changing regulations requires no formal method of public consultation, so it enforces those regulations a little stronger. Secondly, the petroleum act is a parent piece of legislation, the petroleum environment regulations is a subordinate piece of legislation to the act. Therefore the parent act is the decision making powers and should remain together and not be diminished into subordinate legislations. Finally, in the recent administrative arrangement order changes, that we have spoken about in here recently, in accordance with the inquiry recommendations, has resulted in the Minister for Environment and Natural Resources taking authority of the petroleum environment regulations while I retain most of the functions and powers within the petroleum act.

As such it would not be appropriate that decisions I make within the act that are eligible for review, sit within the regulations administered by another minister. We have had a few people speak today about the importance of removing the environmental regulations from this act.

Moving to recommendation nine, the government accepts this recommendation and the correction is made in the amendments that are tabled.

Recommendation 10 has also been implemented, but on the advice of parliamentary counsel has been drafted in a slightly different style.

Finally, there is recommendation 11 which has some detail. Our government is implementing this recommendation with amendments to capture the obligation to disclosure and to create the ability for the minister to request further information. The scrutiny committee noted there should also be sufficient penalties for breaching these obligation. As noted in the public hearing, the department has advised that existing offences could apply in such a scenario, particularly section 107; failure to comply with the act, and section 109; making a false statement.

Nonetheless, as noted in the public hearing offences in the *Petroleum Act* will be reviewed as a part of stage three of our implementation plan of the inquiry's recommendations. That review will look at offence provisions holistically and may implement new provisions in the future.

Speaking of the implementation plan, I want to speak to the Assembly on the wide body of work that has occurred and is ongoing. The implementation plan has a clear, deliberate and staged approach to implement the inquiry's recommendations. It was published in July 2018 and its supporting documents detail which government agency will be implementing each recommendation, how it will be implemented and the timing of when it will be completed.