

**7. CONSIDERATION OF COUNCIL AMENDMENTS**

**7.1. Climate Change Bill 2020 –  
Council amendments considered and approved**

Mr Boot to move.

4030 **The Speaker:** We turn now to consideration of Council amendments. First, the Climate Change Bill 2020 and I call on Mr Boot to move.

**Mr Boot:** Thank you, Mr Speaker.

I would like, with your and the House's permission, to take all the amendments together.

4035 **The Speaker:** Well, it really depends if anyone objects to that, okay?

**Members:** Agreed.

**The Speaker:** Agreed.

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**Mr Boot:** Mr Speaker, following the Bill's successful Third Reading on 9th February 2021, it was submitted to the Legislative Council for further consideration. A number of amendments to the Bill were debated in light of the concerns expressed by Hon. Members in this place and the perceived need to further improve the Bill in light of the views of the Hon. Members of Legislative Council. I will briefly discuss each of the amendments made to the Bill as a consequence of its consideration in Legislative Council.

4045 Clause 2, 'Commencement', of the Bill has been amended to remove from coming into operation upon the Bill receiving Royal Assent clauses 30(3), 32 and 33 of the Bill. This amendment was made noting the concerns that were expressed with regard to the enforcement powers provided by the Bill. Consequently, a commitment was given on behalf of the Climate Change Transformation Board that I am content to confirm to this House. This commitment was and is that clauses 30(3), 32 and 33 of the Bill will only be commenced by Appointed Day Order to the extent necessary for making regulations as a consequence of the Bill. Accordingly, the Appointed Day Orders necessary to enable these powers to be used for such regulations will be drafted and consulted upon with those regulations before they are made.

4050 It would then only be after the five-year plan that comes into effect from 1st April 2022 that consideration will be given to fully commencing these remaining clauses of the Bill. It is anticipated by that time the role for penalties and enforcement powers in the Bill will have been more clearly communicated and there should be less concern around enforcement of the new regulatory controls required to support the enforcement of the provisions in this Bill and climate action set out in the climate change plan.

4055 Clause 3, 'Interpretation', has been amended to correct an error in the definition of 'baseline year', which now refers both clause 5(1) of the Bill in relation to the baseline year for carbon dioxide and clause 5(2) of the Bill in relation to the baseline year for any other greenhouse gas.

4065 It has also been amended to remove a definition of 'domestic effort' that was no longer required in light of the amendments made to clause 12 of the Bill.

4070 Clause 8(1)(d), just transition and climate change principles, has been amended to clarify the drafting of the 'just transition principle' in relation to the economy and employment. There were concerns this particular principle was unclear and could serve to discourage climate change actions that create new jobs from being taken due to their negative impact on the current workforce and overall economy. The new text seeks to make clear that when applying a climate change action or duty, the public body must do so in a way that mitigates, where possible, the

negative impact on the workforce. Furthermore, that the climate change action or duty should still create decent, fair and high-value work that supports the overall economy.

4075 Clause 12, domestic effort, of the Bill has been redrafted further to feedback given in this House. This new clause makes it clear that the actions of the Council of Ministers to achieve the net-zero emissions target and any interim targets consist entirely of actions to reduce the Isle of Man emissions, that is to say emissions of greenhouse gas that are attributable to the Island further to clauses 13 and 14 of the Bill and actions to increase the Isle of Man's removals, which is defined in clause 15(2) of the Bill as meaning removals of greenhouse gases 'from the atmosphere due to land use, sea-bed use, land-use change or forestry activities' on the Island.

4080 Furthermore, it also makes clear that the achievement of the net-zero emissions target and any interim target is based solely on actions taken on Island. While emissions reductions units representing emissions reductions or removals may still be traded on the Island, such emissions reductions units cannot be used to count towards the Island's emission of greenhouse gases or the removal of greenhouse gases for the purpose of achieving the net-zero emissions target and any interim targets.

4085 Clause 15, determining the Isle of Man's emissions and removals, of the Bill has been amended noting feedback in this House and further input from the independent adviser to the Climate Change Transformation Board, Prof. James Curran. This clause now explicitly allows for a technological solution, such as carbon capture and storage, on the Island to be considered as an Isle of Man removal.

4090 Clause 17(3), climate change plan, of the Bill has been amended to clarify the process by which a climate change plan may be amended. It was previously the case that such amendments would require a public consultation. The amended clause now only requires the Council of Ministers to consult on amendments to the plan that had not previously been consulted upon. Such consultations would also only be required to be undertaken with any person or representative of a person to whom that amendment relates. This change to the consultation requirement for amendments to the climate change plan provides for a more proportionate consultation requirement, which may be undertaken on a targeted basis over a shorter period of time when necessary.

4095 Clause 18(4), content of the climate change plan, of the Bill corrects an oversight in the drafting of the Bill to require the climate change plan prepared by the Council of Ministers also assesses how the proposals and policies in that climate change plan will contribute towards achieving the net-zero target.

4100 Clause 22, 'Guidance to public bodies', of the Bill has been amended to require that general guidance be issued to public bodies on how to fulfil their climate change duties by 1st April 2022, along with a requirement to have that guidance regularly reviewed and, if necessary, updated. This will ensure timely provision of such guidance and provide for such guidance to be improved in the future.

4105 Similarly, clause 23, 'Reporting by public bodies on climate change duties', of the Bill has been amended to require that regulations relating to the reporting of public bodies' undertaking of climate change duties are made by 1st June 2022, allowing time for such regulations to be finalised in light of the climate change action plan agreed by 1st April 2022.

4110 While the Bill still requires regulations requiring impact assessments by public bodies to be made by 31st December 2023, I would note that such regulations are anticipated to be introduced before this date, that in any circumstances, the guidance issued further to clause 22 is anticipated to set out some climate change assessment requirements for all public bodies. A further amendment was made to this clause to provide, for the benefit of transparency, that such reports by public bodies are also published once prepared.

4115 Clause 31, application of UK legislation to the Isle of Man, of the Bill has been amended partially in light of feedback in this House, as well as further input in the other place. The technical changes made in light of feedback in this House were to replace references to 'legislation of the United Kingdom' with 'UK legislation' ensuring such text aligns with the provisions of section 13 of the

4125 Interpretation Act 2015, which defines what is meant by a parliamentary enactment and reference to UK legislation accordingly.

In addition, the powers to apply legislation more generally were amended to relate to provisions that relate to climate change action or environmental protection. These explicitly include provisions relating to renewable energy, biodiversity, ecosystems and improvements to the natural environment, waste and resource management, air and water quality and the control of products that fail to meet the standards specified for the protection of the environment. Furthermore, to enable further provisions relating to climate change and environmental protection to be applied in the future, the amendment also provides the *vires* necessary for the Council of Ministers to amend this list by order following consultation and subject to Tynwald approval in the future.

4135 Clause 32, 'Powers of entry', of the Bill has been amended in light of the feedback in this place to clarify how these powers of entry may be applied and the protections that are provided to legally privileged information.

4140 Clause 33, 'Regulations and Orders: fixed penalties', of the Bill has been amended to ensure that in the event that the regulations are made to impose fixed penalty notices, the fixed penalties that may be imposed are not unreasonable, having regard to the severity of the breach of regulations or order in question.

Clause 35, 'Consultation', of the Bill has been amended to correct a technical error and require consultations undertaken as a consequence of this clause are with any person affected.

4145 Clause 36, 'Climate impact assessments', of the Bill has been amended to require Government Departments in the event that regulations have not been made for climate impact assessments under this clause should take account of the impact of that policy or decision on climate change. This amendment implements the existing climate change duties imposed on all public bodies, further to clause 21 of the Bill.

4150 Finally, the Schedule, 'Amendments to Enactments', to the Bill has been amended to provide that in the event regulations are made under section 12 of the Electricity Act 1996, as amended by this Bill, such regulations must be consulted upon with interested parties as well as the public and Manx Utilities, ensuring everyone wishing to supply renewable energy is consulted before such regulations are made.

4155 In closing, Mr Speaker, I would just like to thank all the Hon. Members of the Legislative Council for their consideration of the Bill and the amendments that were moved as a consequence. I would particularly wish to place on record my gratitude to Mrs Poole-Wilson for her hard work in successfully progressing this Bill in the other place. The Bill has been improved by their consideration, and the amendments that have been made to this Bill, and are accordingly endorsed to this House.

4160 Mr Speaker, I beg to move that this House agrees to the 21 amendments made by the Legislative Council to the Climate Change Bill 2020.

**The Speaker:** Hon. Member for Douglas North, Mr Peake.

4165 **Mr Peake:** Thank you very much, Mr Speaker.

I have pleasure in seconding these amendments. I, too, would like to thank Legislative Council for providing 21 amendments here today, which I think do make it better and, yes, my colleague, Mrs Poole-Wilson, a great debt of gratitude we have got. She has worked very diligently and we really do thank her for that.

4170 This is hopefully the end of the legislation process; what happens now, Mr Speaker, is a lot of hard work, but I do think we are on the right path with this. This has set the right tone.

Mr Speaker, thank you very much.

**A Member:** Hear, hear.

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**The Speaker:** I put the question ... Oh, Mr Hooper and Mr Thomas.

**Mr Hooper:** Thank you very much, Mr Speaker.

4180 It is not very often that I agree with Boris Johnson, but the other day he made a remark that  
tackling climate change was more about growth and jobs than it was about, well, in his words,  
'expensive bunny hugging', not terminology I would use, but this principle that dealing with  
climate change is an economic issue, I think is a valid one. It is a point I made in this Hon. House  
at Second Reading and during clauses and a point that our Government has consistently ignored.  
4185 So it is not really a huge surprise to me that Boris 'spaffing it up the wall' Johnson is more on the  
ball and more clued up tackling climate change than our Government is.

But these amendments, they do not make the Bill worse, but they do not make it any better  
either. I cannot vote against them because they do not fundamentally break a Bill that is already  
broken. The Bill already has an irreconcilable conflict between its climate justice principles and a  
fair transition and the clauses in there around domestic effort, for example. I have made all these  
4190 cases before but they have fallen on deaf ears.

This domestic effort requirement in the Bill is already putting businesses off from investing in  
the Isle of Man. It is already putting businesses off investing in carbon reduction on the Island and  
around the world. They are facts. So the Government is blind to this. Somehow they think that  
businesses will invest in carbon reduction as part of their activities if we are then saying, 'Oh, by  
4195 the way, but you also have to invest in doubling that on the Island.' It is not realistic. I do not think  
it realistic actually to expect that all of our carbon reduction can be done on Island. I think that is  
quite an ambitious thing to state, that actually we can do everything we need to do on Island  
without taking into account what is happening elsewhere in the world. Carbon emissions do not  
respect national borders, but this Bill clearly does not realise that as a small island nation we are  
4200 part of a global community. So I am not entirely sure that this Bill is going to achieve the things it  
is setting out to achieve.

One of the things I would like to ask the Minister is if he is imposing an absolute requirement  
now that all of our carbon offsets – and by offsets I mean auditable, verifiable plans to remove  
carbon from the atmosphere; not emissions credits, but actual carbon reduction – if he is saying  
4205 that that can only be done on the Isle of Man or through an Isle of Man scheme, is he able to give  
us an indication when the first Isle of Man scheme is going to be up and running? These are  
decisions businesses are making today, investment decisions, long-term decisions, they are  
making right now. It is no good to hear from the Government we will get there eventually, we will  
get a scheme up and running, it will take us a year. So actually, where is it? You are locking in a  
4210 requirement, but there is not any way of actually delivering on that requirement.

One of the other clauses as well in here talks about Government Departments being required  
to consider the effects of climate change when they make policy decisions – Government  
Departments, not Statutory Boards, not public bodies. The debate we had this morning was about  
the MUA not properly considering Government's environmental policy and yet the amendment  
4215 that has come back down from the Government through the Legislative Council does not require  
Statutory Boards and public bodies to think about that as of today. They can wait until the  
regulations come in in December 2023.

So I cannot vote against these amendments. Like I say, they do not make the Bill substantially  
worse, but they do not make it substantially better, and let us not be tricked or fooled into  
4220 believing that this Bill is going to deliver. It is not. We need a significant change in mindset, a  
change in attitude and a change in approach from our Government to actually deliver on some of  
the actions that are outlined in the impact report, some of the actions that are outlined in the  
action plan, and actually let's not get hung up on this legislation because I really think it is going  
to need to be repealed, changed or amended in very short order as the world is moving a lot faster  
4225 than I think our Government is willing to accept.

Thank you, Mr Speaker.

**The Speaker:** The Hon. Member for Douglas Central, Mr Thomas.

4230 **Mr Thomas:** Thank you, Mr Speaker.

I welcome the amendment to clause 31 in terms of changing 'legislation of the United Kingdom' to 'UK legislation'. Obviously, that was on the table in the House of Keys, I am delighted that the Legislative Council actually made that change, and that will provide a lot more flexibility.

4235 I also welcome the change in terms of the Appointed Day Order and taking out the blanket coming into force because that gives us a chance to reflect again on the regulations, and I fully welcome that.

I have got questions in three areas, which I hope the mover can address in his closing remarks. The first one is that the guidance in clause 22, I just wanted to put on *Hansard* quite clearly, if the Minister possibly can, that guidance is merely that, it is just guidance, it is guidelines. It could be  
4240 that the public bodies know better than Government when they make the guidance. It could be that the Post Office, the MUA and the other public bodies have actually already done a lot more in terms of climate change.

So therefore I just wanted the Minister to put down on record that if the public bodies want to completely ignore the Council of Ministers' guidance that is fine by him because public bodies are  
4245 arm's-length organisations, with their own independent boards making their own decisions, and that is what the whole nature of guidance and guidelines is all about. I just wanted that completely clear for *Hansard* at this stage, so we accept that these are arm's-length bodies operating under their own law, with their own independent bodies to make their own decisions.

Also, building on this theme, obviously the Steam Packet is not included in the definition of  
4250 public bodies because they use the freedom of information definition, and there will be other public bodies out there that will be making decisions about this, and I just thought it would be helpful for the Minister to put on *Hansard* that those other public bodies can consider the guidance that will now be made available before 2022, or they can completely ignore it because they are arm's-length bodies with their own boards who have fiduciary, often statutory  
4255 responsibility for their own climate change responses.

The second set of questions is to do with the amendments to the policy changes which are in clause 36. Obviously it is standard practice and good practice, and I think is even written up in the Government Code, and it is often referred to in Tynwald resolutions and resolutions of Tynwald  
4260 Committees that policy changes, especially when they are major, should come to Tynwald for approval. That is really the point of Tynwald to actually determine the changes of policy. So I just want a clear statement today from the Minister that the amendment to clause 36 does not mean now that we can have major policy changes just made inside Government Departments rather than coming to Tynwald for approval and that this provides a statutory basis for that, because I think that is clearly wrong. I do think that the Government Code and the standard principle should  
4265 apply whereby major policy changes, in fact all policy changes to an extent, if you want to call them policy, should be at the widest possible public.

The third question is building on Mr Hooper's points to do with the domestic effort and the lack of substance in terms of allowing people to fulfil this, and I have two questions arising from this. Firstly, does the Minister accept that this might be something like the community  
4270 infrastructure levy that was promised with the Area Plan for the East? In the sense it might be something that was going to raise £50 million, and subsequently it emerged that we have not actually done the viability considerations and we had misunderstood the concept. Perhaps, does the Minister want to accept at this stage that it might be that problems will emerge with this domestic effort and we might need to review it quite soon.

4275 The second point is are the people who are going to be affected by this signed up to it, or could we be creating ourselves a problem that might hit even the law courts quite quickly? So for instance, Manx Gas has used this sort of domestic effort in Jersey and Guernsey to do with its plans there. Have they been involved in the consultation about the way that the law is written or

4280 is this something that they might end up using against us, inadvertently on our part, but I am sure they are following this sort of thing very closely.

With that, Mr Speaker, I thank you very much for your indulgence, allowing me to make some remarks.

**The Speaker:** Hon. Member for Middle, Mr Shimmins.

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**Mr Shimmins:** Thank you very much, Mr Speaker.

I will be supporting the Council's amendments but I would like to associate myself with the remarks that my hon. friend, Mr Hooper, the Member for Ramsey, has made in terms of I would caution against too much self-congratulation on this Bill.

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I think what we have seen over the last six months is we are falling just further behind our neighbours and particularly now with the new president of the United States, the whole international landscape is accelerating on this. Leaders around the world are gathering in Glasgow and it will accelerate further.

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The Isle of Man: well, we have got this Bill and, as I say, I will be voting for it, but actually what is needed, and I agree with my hon. friend, Mr Peake, is pragmatic, practical action now.

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We just heard this morning about some really unpragmatic action that unfortunately the MUA have taken. I got the impression from the Chairman that that is going to be reviewed and hopefully that would change, but that is just one example of many frustrations that people have who had high expectations for this administration on climate change, who have sadly been, in their views, let down. Because frankly, if you try and get an electric charger for your car put in it is not a smooth process, Hon. Members. It is a carry on. We are not making it easy for people to do this. If you want to put solar panels on your roof, good luck if you are in a conservation area. You can forget that, because we do not seem to have joined up any of this. So these are practical things; if we want to accelerate this actually probably legislation is not the thing. There are actually some really simple, five or 10 things you could do to get this moving.

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Sadly, what I am not seeing right across Government is leadership, passion, championing this. I am seeing people saying, 'This is *hard*.' Of course it is hard. We are not here to do just easy things, Hon. Members, in my view.

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If I look at what is happened with vehicle excise duty. Again, that was ducked. That was hard, but nothing has happened there either. We are seeing other places introduce carrots and sticks and we are just bumbling along really, aren't we?

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I really hope that we will see some leadership because the crying shame in all of this, it is not just about the pressing need of the climate emergency, it is what Mr Hooper was saying: there is an enormous economic opportunity here if you would only get on with it! (**A Member:** Hear, hear.)

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So I will be supporting, but please enough, messing around, bumbling around, let's get on with this. There are lots of practical, pragmatic things we can do to kick-start this, there will be some tough decisions and people need to step up.

Thank you, Mr Speaker.

**The Speaker:** Hon. Member for Peel and Glenfaba, Mr Harmer.

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**Mr Harmer:** Thank you, Mr Speaker.

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I will be brief. In some respects, I support all of the comments ... but this is a landmark, we are now moving forward from this point, it is a stake in the ground. It cannot solve *all* the problems but there are some really key ones. The reason why I am standing is because I want to remind us of those key issues: net-zero by 2050, action on fossil fuel boilers, for example, and also the Electricity Act. We talked about this this morning, about the actions of the MUA, but at the moment they have to go for the lowest price. This fundamentally changes things. This sets, if you like, the baseline.

4330 The Hon. Member for Douglas North put it absolutely right: it is all about action. It is all about domestic effort right now, and it is across all Departments. It is actually making a difference, but it will only happen if we all pull together and actually change. It is a mindset change in everything we do.

I would agree with the previous comments that all of this will be for nothing unless we actually change our mindset and actually deliberately push, not just accept what is there at the moment, but push for change.

Thank you, Mr Speaker.

**The Speaker:** Hon. Member for Douglas East, Mrs Barber.

4340 **Mrs Barber:** Thank you, Mr Speaker.

I, too, would like to echo some of the comments already made around this Bill not being a panacea in this regard.

4345 One of the questions that I put in another place recently was around the consideration in terms of green initiatives for some of our biggest capital projects, and disappointingly we still have some capital projects that are being built with no green initiatives at all – zero. So for me, if we really truly want to believe in and sign up to a change in this regard, we *have* to lead by example.

4350 There has to be an acknowledgement and understanding that on some occasions it is not going to be cheaper to be greener. And we are going to be asking the same of all of the people of this Island: to do things that are right but are not necessarily going to bring them a direct saving. There may be savings in the longer run, as things change, but actually there may be in the short term changes in cost. We are going to have to do that, and we are going to have to be honest and up front about it.

4355 But all the time that we are not willing to do it in terms of our own capital programme I really struggle to see how we can lead by that example and, as has been said before, be the beacon that we want to be in this area and that we have the opportunity to be.

So I will support the amendments, but this absolutely is not the be-all and end-all. There is so much more that has to be done in this regard.

Thank you, Mr Speaker.

4360 **The Speaker:** I call on the mover to reply, Mr Boot.

**Mr Boot:** Thank you, Mr Speaker.

First of all, I would like to thank everyone for their contribution today, and some of the scepticism around this I will talk about in a minute.

4365 Mr Peake, thank you very much for seconding. You are part of the Transformation Board and aware of what is going on behind the scenes and there is definitely a commitment to move matters forward.

4370 I am a little bit disappointed with Mr Hooper's comments. I think we are all aware that a green agenda can be an economic driver. The UK is ahead of us but we are catching up fast. I think that as a parliament, a Council of Ministers, we are aware that there will be challenges and there is a lot of work to be done behind the scenes, but that work *is* going on and we are very much aware of the economic issues.

4375 I believe that we should endeavour to reduce our emissions and CO<sub>2</sub> by domestic effort. We have already got phase one of the plan going through, and it will be obviously for the next administration going forward to set the five-year plan in due course. It is likely to be an interesting ride because things will change and priorities will change. At the moment, we are setting the scene, as it were.

4380 I thank Mr Thomas for his contributions and the fact that he welcomed some of the changes. He talked about guidelines and whether they are set in concrete. They are guidelines – just that. But at the end of the day, the real arbiter of what people do is either in this place or the other

place or local authorities answer to their electorate. So we have to trust in the democratic process when people sign up to guidance we hope that they will follow it.

In terms of major changes of policy, they will inevitably be scrutinised in Tynwald and obviously by the Council of Ministers. So there will be scrutiny of major policy changes.

4385 You referred to the infrastructure levy and the fact that that has not really panned out as expected, and I think that is very true. Some things seem like good ideas, but in practice they do not work as easily and simply or raise as much money as you anticipate. But I am sure that will come out during the 30-year life of this Bill, as it were. To seek net-zero by 2050 there will have to be changes in direction, particularly as technology changes, peoples' aspirations change and availability of various items of machinery i.e. cars etc. that change to electric from fossil fuels.

4390 With regard to Manx Gas, they had ample opportunity, as did anyone else, to contribute to the consultation process and I am sure they did and I would expect them to have done that.

4395 Mr Shimmins: he echoes some of Mr Hooper's scepticism. I think his scepticism is not shared by the majority of people in this House. We have come together and we have produced a Bill, and we are one of few countries in the world that has actually got a Bill that sets climate change targets in law. Many countries *commit* to it but they have not committed to putting it in law. So I think that is a firm commitment from Government, parliament here, that we are really committed to a direction of travel that this Bill sets.

4400 You reiterate, and others do, that it is action that counts, and it *is* action that counts. We have not been sitting on our laurels. It has taken a lot of effort to put this Bill together, but at the same time, parallel with the Citizens' Forum, the Transformation Board, there is work that has been going on. We are already well into phase one of the action plan and then phase two will follow shortly. So perhaps, Mr Shimmins, a little less hot air and get behind what we are trying to achieve.

4405 I would like to thank Mr Harmer. He summarised and reminded us that this is a landmark decision. From my perspective, this is a historic moment, as I said earlier. This is setting us on a path that is in law now. That is primary legislation and if it requires change or alteration, it will be a difficult process. So I anticipate future administrations will follow that path but I cannot commit them or say that they will do everything as we would really like to see it.

4410 Mrs Barber, I thank you for your contribution, but I sometimes wonder, when I listen, why we do not trust our parliament and scrutiny process going forward. We as a parliament, or future parliamentarians, will look at this Act, look at the actions and they will scrutinise that. This Bill is setting us up with a driver to go forward, and I believe that we are committing to the right level of resource. We have already made substantial financial commitments going forward and that money will soon start to be seen by the public, with a green scheme that is coming forward. We have already started peat restoration projects and there is a lot of work ongoing.

4415 I for one am fully behind it and I believe that we will see action. But we will see what happens in the next administration. Some of us will be here, some of us will not. There will be new Members, and I really hope that they will get behind this and keep driving the process.

4420 With that said, Mr Speaker, I beg to move and thank everyone for their contribution.

**The Speaker:** I put the question that Council amendments to the Climate Change Bill 2020 be agreed. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.