



Minister for Advanced Technology and Space Industries
Minister for the Environment and Heritage
Minister for Planning and Land Management
Minister for Police and Emergency Services
Minister for Urban Renewal
Manager of Government Business
Member for Brindabella

Mrs Giulia Jones
Chair
Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Mrs Jones

I write in relation to Scrutiny Report 50 of the Standing Committee on Justice and Community Safety (the Committee) concerning the Emergencies Amendment Bill 2020 (the Bill), which was introduced into the Assembly on 20 August 2020.

The report noted the new safeguards in the Bill requiring the emergency controller to advise the Chief Minister and Minister at least every seven days about the status of the emergency, whether their appointment is still justified, and whether any declared state of alert/state of emergency is still justified. There is also an obligation placed on the Chief Minister and Minister to revoke the appointment or declaration if, after taking into account the advice received, they decide it is no longer justified.

The Committee raised a concern that there is limited accountability for this advice or for the decision of the Chief Minister or Minister. As the Report notes, the Explanatory Statement had considered this issue, noting that:

There is no requirement to make public the advice provided by the emergency controller, noting that in a national security incident that led to the appointment of an emergency controller or a state of emergency the emergency controller's advice may be of a sensitive or classified nature.

The Committee sought information on why provision could not be made to have any advice made public within a reasonable period subject to redaction of sensitive or classified material.

Creating a requirement that any advice from the emergency controller be made public as proposed was considered when drafting the Bill, but as noted in the Explanatory Statement, ultimately not supported.

ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia
Phone +61 2 6205 0218 Email gentleman@act.gov.au



@GENTLEMANMick



MickGentleman



I note that there are already obligations to keep the community informed. Section 154 of the *Emergencies Act 2004* (the Act) requires the Minister to give the community regular situation reports during a state of alert. The emergency controller is also obliged to exercise their functions in accordance with the emergency plan and any relevant sub-plans. Those plans make it a priority to provide timely, accurate and consistent information to the media and community.

These obligations were clearly demonstrated during the state of alert / state of emergency in the ACT over the past summer. The Emergency Controller, the Emergency Service Agency and broader ACT Government went to considerable efforts to ensure that the community were kept well informed about the status of the emergency.

I do not consider that any requirement to make the formal advice provided by the emergency controller to the Minister or Chief Minister public as suggested would enhance accountability or increase public awareness. I am also mindful of the potential for the advice to be misinterpreted, leading to unnecessary community concern about the actual level of danger the community is facing.

I am concerned that imposing such an obligation would also impose an administrative burden at a time of crisis when the government should rightfully be focused on managing the emergency, its consequences, and keeping the community informed in the most effective and timely manner.

For these reasons I do not support the Committee's suggestion that the advice from the emergency controller to the Chief Minister and Minister under section 166A of the Act be made public. However, I appreciate the importance of ensuring the Act has appropriate obligations to ensure that the community are appropriately informed about the status of emergencies. As such, I have asked whether the existing obligations in the Act to inform the community during emergencies could be considered in the upcoming five-yearly review of the Act as required by section 203.

I thank the Committee for its thoughtful scrutiny of this Bill and this opportunity to engage on the issues outlined in the Report.

Yours sincerely

Mick Gentleman MLA
Minister for Police and Emergency Services