



LEGISLATIVE COUNCIL

SESSION OF 2019

(SECOND SESSION OF THE FORTY-NINTH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 43

TUESDAY, 19 NOVEMBER 2019

1 COUNCIL MEETS.— The Council met at 11.00 o'clock in the forenoon and the President read Prayers.

2 LEAVE TO TABLE ANSWER TO QUESTION AND INCORPORATE ANSWER INTO HANSARD.—*Ordered*, That Mrs *Hiscutt* have leave to Table answer to Question No. 11 and have the answer incorporated into the Hansard record.

3 TASMANIAN PRISON SERVICE.— Ms *Forrest* asked the Honourable the Leader of the Government— With regard to the Tasmanian Prison Service—

- (1)
 - (a) What is the most recent assessment of the average daily cost for each male prisoner;
 - (b) what is the most recent assessment of the average daily cost for each female prisoner; and
 - (c) who was responsible for undertaking these assessments?
- (2)
 - (a) What cost assessments are available for the average daily cost for each prisoner annually over the five years prior to the most recent assessment for male and female prisoners listed separately; and
 - (b) who was responsible for undertaking these assessments?
- (3)
 - (a) What areas/level of security is the prison divided into to house male prisoners whilst incarcerated; and
 - (b) female prisoners whilst incarcerated?
- (4) What is the designed capacity of each area/level of security of the prison listed separately by;
 - (a) area/level of security; and
 - (b) gender?
- (5) What has been the prison occupancy level on 1 July in each of the last 5 years in each area of the prison, listed separately by;
 - (a) area/level of security; and
 - (b) gender?
- (6) What is the total number of prisoners who have been released in the last five years listed on an annual basis?
- (7)
 - (a) How many male prisoners have been released on remission each year for the last five years; and
 - (b) what has been the length of those remissions individually?
- (8)
 - (a) How many female prisoners have been released on remission each year for the last five years; and
 - (b) what has been the length of those remissions individually?
- (9)
 - (a) How many male prisoners who have been released on remission, have reoffended and been sentenced to further custodial sentences in the last five years; and

- (b) how many female prisoners who have been released on remission, have reoffended and been sentenced to further custodial sentences in the last five years?
- (10) (a) How many male prisoners who have been released on remission, have not reoffended in the last five years; and
 - (b) how many female prisoners who have been released on remission, have not reoffended in the last five years?
- (11) (a) How many male prisoners who have been released without remission have reoffended and been sentenced to further custodial sentences in the last five years; and
 - (b) how many female prisoners who have been released without remission have reoffended and been sentenced to further custodial sentences in the last five years?
- (12) (a) How many male prisoners who have been released without remission have not reoffended in the last five years; and
 - (b) how many female prisoners who have been released without remission have not reoffended in the last five years?
- (13) (a) How many male prisoners who have been released on parole, have reoffended and been sentenced to further custodial sentences in the last five years; and
 - (b) how many female prisoners who have been released on parole, have reoffended and been sentenced to further custodial sentences in the last five years?
- (14) (a) How many male prisoners who have been released on parole, have not reoffended in the last five years; and
 - (b) how many female prisoners who have been released on parole, have not reoffended in the last five years?
- (15) (a) How many male prisoners who have been released without parole have not reoffended in the last five years; and
 - (b) how many female prisoners who have been released without parole have not reoffended in the last five years?
- (16) (a) How many male prisoners who have been released without parole have reoffended and been sentenced to further custodial sentences in the last five years; and
 - (b) how many female prisoners who have been released without parole have reoffended and been sentenced to further custodial sentences in the last five years?
- (17) What are the annual rates of overtime worked by custodial officers over the last five years listed annually by hours and cost?
 - (a) What are the annual rates of sick leave taken by custodial officers over the last five years listed annually by hours and cost?

The Leader answered,

- (1) (a) **What is the most recent assessment of the average daily cost for each male prisoner;**
 (b) **What is the most recent assessment of the average daily cost for each female prisoner, and**
 (c) **Who was responsible for undertaking these assessments.**

In August 2019, the Department of Justice undertook an assessment to determine the 2018-19 average daily cost for each prisoner in order for it to be published within the Productivity Commission's *Report on Government Services*.

The cost provided has been determined in line with the Productivity Commission's definitions, which are as follows:-

Average operating expenditure, on corrective services per prisoner/offender per day, net of payroll tax, operating revenues for ordinary activities and depreciation on government owned assets.

Operating expenditure per prisoner per day excludes expenditure on prisoner transport and health services which are reported separately as descriptors.

For 2018-19, Tasmania's real net operating expenditure has been determined as \$312 per prisoner per day. This figure is the same for both male and female prisoners.

- (2) (a) What cost assessments are available for the average daily cost for each prisoner annually over the five years prior to the most recent assessment for male and female prisoners list separately; and
(b) Who was responsible for undertaking these assessments.

The Department of Justice annually reports Tasmania's costs per prisoner per day (in accordance with the above definitions) in the Productivity Commission's *Report on Government Services*.

The following is a breakdown of Tasmania's real net operating expenditure per prisoner per day over the last five years:-

2018-19	\$312
2017-18	\$305
2016-17	\$297
2015-16	\$312
2014-15	\$326

- (3) (a) What areas/level of security is the prison divided into to house male prisoners whilst incarcerated
(b) female prisoners whilst incarcerated

The Tasmania Prison Service maintains facilities located at Risdon Vale, Hobart and Launceston, that provide care and custody, at various levels of security, for prisoners and persons remanded in custody.

Prisoners are assigned a security rating through the classification and placement process, based on a comprehensive risk assessment and an evaluation of their individual needs. Prisoners are assigned to a facility with a security rating equal to or greater than the prisoner's individual security rating.

The reception prisons located at Hobart and Launceston are maximum security rated facilities that primarily hold people on remand (both male and female) for a short period of time whilst they are inducted into custody, or whilst they await appearance in court. Prisoners of all classification levels can be accommodated at the reception prisons.

The Risdon Prison Complex (RPC) is a maximum security rated facility that holds male prisoners of all classification levels. The RPC is broken up into a maximum security precinct and a medium security precinct.

The Ron Barwick Minimum Security Prison (RBMSP) is a medium security rated facility that primarily holds male minimum security rated prisoners. Some designated areas of the RBMSP facility can accommodate medium security rated prisoners.

The Mary Hutchinson Women's Prison (MHWP) is a maximum security rated facility that holds female prisoners of all classification levels. The MHWP is broken up into a maximum security precinct, a medium security precinct and a minimum security precinct.

- (4) What is the designed capacity of each area/level of security of the prison listed separately by;
(a) area/level of security; and
(b) gender.

The Tasmania Prison Service reports prison capacity rates in accordance with the national counting rules as determined in the Productivity Commission's *Report on Government Services*. As such, the design capacity of a facility is defined as;

Total number of cells designed for single occupancy, plus the number of designated bed placed in shared cell or dormitories.

Design capacity excludes bed places used for special purposes. For the Tasmania Prison Service dedicated inpatient, observation, crisis support, disciplinary separation and temporary beds, as well as decommissioned areas of a prison are not included in the design capacity count. With the exception of a small number of 'buddy cells', all cells are designed for single occupancy.

The current capacity (as per the below table) better reflects the number of cells that are fit for purpose and available for regular use.

On 26 September 2019 the design capacity and the current capacity of the Tasmanian Prison facilities was as follows:-

Prison	Design capacity *	Offline cells / rooms	Additional Beds ~	Current capacity
Hobart Reception Prison	36			36
Launceston Reception Prison	26	-	-	26
Mary Hutchinson Women's Prison	63		17*	80
Risdon Prison Complex	299	6	-	293
Medium Security	196	6	-	190
Maximum Security	103	-	-	103
Ron Barwick Minimum Security Prison	296	-	-	296
Divisions 1 – 8	280	-		280
O'Hara Cottages	16			16
TOTAL (ROGS)	720	6	17	731

*17 Bunks beds were installed in August 2017 – these beds are designed for ongoing use and as such are not recorded as temporary or surge beds.

In addition to the above, a number of temporary beds have also been installed in a number of prison facilities which are used as designated surge beds during periods of heightened prisoner numbers. These beds are not available for routine operational use.

- (4) **What has been the prison occupancy level on 1 July in each of the last 5 years in each area of the prison, listed separately by:**
 (a) **area/level of security; and**
 (b) **gender.**

The below table captures relevant prisoner capacity and utilisation rates for the last three years as at the first business day of the financial year.

The utilisation rate is determined by dividing the current capacity by the prisoner population. Overall, the overall prison utilisation rate were as follows:-

1 July 2019	94%
2 July 2018	94%
3 July 2017	92%

Prison Capacity and Utilisation Beds / Rooms												
	Design Capacity on 01/07/2019			1/07/2019			2/07/2018			3/07/2017		
Prison	Design capacity *	Offline cells / rooms	Additional Beds ~	Current capacity	Prisoners	Utilisation rate based on current capacity	Current capacity	Prisoners	Utilisation rate based on current capacity	Current capacity	Prisoners	Utilisation rate based on current capacity
Hobart Reception Prison	36	2		34	48	141%	18	24	133%	34	22	65%
Launceston Reception Prison	26	-	-	26	22	85%	28	11	39%	29	26	90%
Mary Hutchinson Women's Prison	63		17	80	54	68%	46	35	76%	46	40	87%
Risdon Prison Complex	299	9	-	290	292	101%	301	292	97%	302	291	96%
Medium Security	196	8	-	188	190	101%	196	195	99%	196	194	101%
Maximum Security	103	1	-	102	102	100%	105	97	92%	106	97	92%
Ron Barwick Minimum Security Prison	296	-	-	296	265	90%	255	250	98%	232	222	96%
Divisions 1 – 8	280	-		280	251	90%	239	236	99%	220	212	96%
O'Hara Cottages	16			16	14	88%	16	14	88%	12	10	83%
TOTAL (ROGS)	720	11	17	726	681	94%	648	612	94%	643	608	92% *

*2017 Report format different. Total includes RoGS exclusions

Data for 2016 and 2015 is not readily available in a comparable format.

- (5) What is the total number of prisoners who have been released in the last five years listed on an annual basis?

Year	Release Total
2015	1478
2016	1556
2017	1610
2018	1829
2019 (up until 21 Sep 2019)	1337

- (6A), (6B) and (7) to (15)

Data to answer questions 6A, 6B and 7 to 15 is not readily available – The systems used by the Department of Justice are not set up to readily generate the data required. A project could be developed in order to examine ways to generate this data, however, this could possibly take a number of months and would require the reallocation of resources.

- (16) What are the annual rates of overtime worked by custodial officers over the last five years listed annually by hours and cost

Year	Sum of Hours	Sum of Amount
2015	29298.87	\$ 2,140,754.18
2016	40756.29	\$ 3,049,967.34
2017	39303.84	\$ 3,008,954.11
2018	55377.47	\$ 4,351,142.90
2019	60753.38	\$ 4,895,687.54
Grand Total	225489.85	\$ 17,446,506.07

- (17) **What are the annual rates of sick leave taken by custodial officers over the last five years listed annually by hours and cost**

Year	Sum of Transaction Amount - Hrs	Sum of Dollar Amount
2014-2015	27925.82	\$ 1,149,085.86
2015-2016	29381.38	\$ 1,209,450.50
2016-2017	35738.41	\$ 1,462,580.67
2017-2018	39562.86	\$ 1,608,683.94
2018-2019	44914.79	\$ 1,810,065.12
Grand Total	188260.91	\$ 7,690,618.37

4 PAPERS.— The Clerk of the Council laid upon the Table the following Papers:—

- (1) Report of the Auditor-General No. 3 of 2019-20. Tasmania Prison Service: use of resources.
- (2) Custodial Inspector: Families, Community and Partnerships Inspection Report. Inspection of Youth Custodial Services in Tasmania, 2019. Dated October 2019.
- (3) Forest Practices Authority: Annual Report 2018-2019.
- (4) State Grants Commission: 2018-2019 Annual Report.
- (5) Heavy Vehicle National Law and Other Legislation Amendment Act 2019. Act No. 29 of 2019. Parliament of Queensland.
- (6) Water and Sewerage Industry (Community Service Obligation) Act 2009: Statutory Rules 2019, No. 59, containing Water and Sewerage Industry (Community Service Obligation) Regulations 2019.
- (7) Traffic Act 1925: Statutory Rules 2019, No. 61, containing Road Rules 2019.
- (8) Living Marine Resources Management Act 1995: Statutory Rules 2019, No. 62, containing Fisheries (Rock Lobster) Amendment Rules 2019.
- (9) Living Marine Resources Management Act 1995: Statutory Rules 2019, No. 63, containing Fisheries (Abalone) Amendment Rules 2019.
- (10) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising an area of land containing 4407 m2 of land situate in the City of Launceston, Municipal area of Launceston.
- (11) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising areas of land containing 581 m2 and 1513m2 of land situate in the Parish of Carlton, Land District of Pembroke, Municipal Area of Sorell.
- (12) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising areas of land containing 343m2 and 609m2 of land situate in the Parish of Ormaig, Land District of Monmouth, Municipal Area of Southern Midlands.

5 SPECIAL INTEREST MATTERS.— The President advised the Chamber of six Members who had indicated their desire to speak and of the order in which they were to speak as follows —

- (1) Ms *Ratray* - Around McIntyre;
- (2) Ms *Forrest* - Live Well Tasmania;
- (3) Ms *Armitage* - Kin Raising Kids;
- (4) Mr *Valentine* - The Windward Trust;

- (5) Mr *Finch* - A New Call for a Tamar Management Authority; and
- (6) Ms *Dean* – Neighbourhood House.

At the conclusion of Special Interest Matters the Council proceeded to Orders of the Day.

6 ESTABLISHMENT OF SELECT COMMITTEE ON PUBLIC HEALTH AMENDMENT (PREVENTION OF SALE OF SMOKING PRODUCTS TO UNDERAGE PERSONS) BILL 2018.— A Motion was made (Mr Dean) and the Question was proposed, That a Select Committee be appointed, with power to send for persons and papers, with leave to sit during any adjournment of the Council, and with leave to adjourn from place to place to inquire into and report upon —

- (1) The *Public Health Amendment (Prevention of Sale of Smoking Products to Under-Age Persons) Bill 2018 (No. 45)* (Private Members Bill); and
- (2) Any matters incidental thereto.

And that —

Ms *Armitage*;
Mr *Armstrong*;
Ms *Howlett*;
Ms *Lovell*; and
Ms *Rattray*;
be of the Committee.

A Debate arose thereupon.

7 SITTING SUSPENDED.— It being 1.00 o'clock p.m. the Sitting of the Council was suspended.

The Council resumed the Sitting at 2.30 o'clock p.m.

8 QUESTION TIME.— The President called for Questions without Notice. There were three Questions asked.

9 ESTABLISHMENT OF SELECT COMMITTEE ON PUBLIC HEALTH AMENDMENT (PREVENTION OF SALE OF SMOKING PRODUCTS TO UNDERAGE PERSONS) BILL 2018.— The Council resumed the Debate on the Question, That That a Select Committee be appointed, with power to send for persons and papers, with leave to sit during any adjournment of the Council, and with leave to adjourn from place to place to inquire into and report upon —

- (1) The *Public Health Amendment (Prevention of Sale of Smoking Products to Under-Age Persons) Bill 2018 (No. 45)* (Private Members Bill); and
- (2) Any matters incidental thereto.

And that —

Ms *Armitage*;
Mr *Armstrong*;
Ms *Howlett*;
Ms *Lovell*; and
Ms *Rattray*;
be of the Committee.

And the Question being put,

The Council divided.

AYES 6

NOES 8

Mr Dean

Mr Finch

Mr Gaffney

Ms Hiscutt

Ms Howlett

Mr Valentine (Teller)

Ms Armitage

Mr Armstrong

Mr Forrest

Mr Lovell

Ms Rattray

Ms Seijka

Ms Lovell

Ms Webb (Teller)

Mr Willie

So it passed in the Negative.

10 STATE CORONER OF NSW REPORT INTO DEATHS OF SIX PATRONS OF NSW MUSIC FESTIVALS.— A Motion was made (Ms *Forrest*) and the Question was proposed,

- (1) That the Legislative Council notes:
 - (a) The Report of the State Coroner’s Court of New South Wales of the Inquest into the death of six patrons of NSW music festivals (the Report), released on 8 November 2019 by Magistrate Harriet Grahame, the Deputy State Coroner for New South Wales;
 - (b) the thorough and evidence-based approach taken to inform the Report; and
 - (c) the Report’s Recommendation 1, to the NSW Department of Premier and Cabinet, recommending the introduction of a front of house medically supervised pill testing/drug checking pilot for the summer of 2019-20.
- (2) That the Legislative Council calls on the Tasmanian Government to:
 - (a) Fully consider the NSW Coroner’s Report;
 - (b) put in place the necessary measures to actively promote the safety of patrons attending Tasmanian 2019-20 music festivals;
 - (c) undertake evidence informed public education campaigns related to the harms of illicit drug use; and
 - (d) review the research and explore the processes necessary to introduce a medically supervised pill testing/drug checking pilot or trial in Tasmania.

A Debate arose thereupon.

An Amendment was proposed to be made to the Motion (Mrs *Hiscutt*)

First Amendment

Delete paragraphs (1) (b) and (1) (c)

Motion made and Question proposed, That the Amendment be agreed to,

A Debate arose thereupon.

An Amendment was proposed to be made to the main proposed First Amendment (Ms *Forrest*)

By leaving out after the word “delete” —

“paragraphs (1) (b) and (1) (c)”

Insert instead —

“paragraph (1) (c)”

And the Question being put, That the Amendment to the main proposed First Amendment be agreed to.

It was resolved in the Affirmative.

The main proposed First amendment as amended was agreed to.

The Council resumed the Debate on the Question, That the Motion as amended be agreed to.

Further Amendment proposed (Mrs *Hiscutt*)

Second Amendment

Delete paragraph (2)(b) and insert instead

(2)(b) in partnership with Festival organisers put in place measures to actively promote the safety of patrons attending Tasmanian 2019-20 music festivals;

Ant the Question being put, That the Amendment to the amended Motion be agreed to.

It was resolved in the Affirmative.

The Council resumed the Debate on the Question, That the Motion as amended be agreed to.

Further Amendment proposed (Mrs *Hiscutt*)

Third amendment

Delete paragraph (2) (d)

An Amendment was proposed to be made to the main proposed Third Amendment (Ms *Forrest*)

By leaving out after the word “delete”—

“paragraph (2) (d)”

Insert instead the following —

“paragraph 2(d) and insert the following —

(d) give full and genuine consideration to the Report’s Recommendation 1, to the New South Wales Department of Premier and Cabinet, recommending the introduction of a front of house medically supervised pill testing/drug checking and reaffirm the Government’s commitment made during debate on 14 August 2019, to review the NSW Coroner’s Report and the forthcoming Australian National University independent evaluation of the second pill testing trial in the ACT”.

And the Question being put, That the Amendment to the main proposed Third Amendment be agreed to.

The Council divided.

AYES 8

NOES 6

Mr *Finch*

Ms *Armitage*

Ms *Forrest*

Mr *Armstrong*

Mr *Gaffney*

Mr *Dean*

Ms *Lovell*

Mrs *Hiscutt*

Ms *Siejka*

Ms *Howlett* (Teller)

Mr *Valentine* (Teller)

Ms *Rattray*

Ms *Webb*

Mr *Willie*

It was resolved in the Affirmative.

The main proposed third amendment as amended was agreed to.

The Council resumed the Debate on the Question, That the Motion as amended be agreed to.

And the Question being put,

It was resolved in the Affirmative.

11 ADJOURNMENT.— A Motion was made (Mrs *Hiscutt*) and the Question was put, That the Council will at its rising adjourn until 11.00 o'clock am on Wednesday, 20 November 2019.

It was resolved in the Affirmative.

Resolved, That the Council do now adjourn. (Mrs *Hiscutt*)

The Council adjourned at 6.27 o'clock p.m.

D.T. PEARCE, *Clerk of the Council*.