



LEGISLATIVE COUNCIL

SESSION OF 2021

(FIRST SESSION OF THE FIFTIETH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 22

TUESDAY, 9 NOVEMBER 2021

- 1 **COUNCIL MEETS.**— The Council met at 11.00 o'clock in the forenoon.
- 2 **ACKNOWLEDGEMENT OF TRADITIONAL PEOPLE.**— The President said: “We meet today on Tasmanian Aboriginal land. We acknowledge and pay respect to the Tasmanian Aboriginal people and elders, past and present. We recognise them as the traditional and original owners and the continuing custodians of this land.”
- 3 **PRAYERS.**— The President read Prayers.
- 4 **LEAVE TO TABLE ANSWER TO QUESTION AND INCORPORATE ANSWER INTO HANSARD.**— *Ordered*, That Mrs *Hiscutt* have leave to Table answer to Question No. 5 and have the answer incorporated into the Hansard record.
- 5 **AUDITOR GENERAL REPORT NO 2 HUON VALLEY COUNCIL GENERAL MANAGER RECRUITMENT, APPOINTMENT AND PERFORMANCE ASSESSMENT.**— Dr *Seidel* asked the Honourable the Leader of the Government with regard to the Report of the Auditor-General No. 2 of 2021-22: Council general manager recruitment, appointment and performance assessment:
 - (1) Does the government accept the findings that the inadequate management of the conflict of interest resulted in a flawed recruitment process for the Huon Valley Council’s general manager?
 - (2) Does the government accept the findings that the potential for bias and unfair treatment of applicants was significant throughout the recruitment process?
 - (3) Does the government accept that the process undermined the public confidence required in an appointment as significant as the general manager of a council?
 - (4)
 - (a) Does the government believe that the breaches identified by the Auditor-General warrant further investigation under the *Criminal Code Act 1924*;
 - (b) if yes, what action has been taken by the government and/or the Director of Local Government in this matter; and
 - (c) if not, what assurances can the government provide that an investigation under the *Criminal Code Act 1924* is not warranted?
 - (5) Does the government believe that any breaches under Section 27 of the *Local Government Act 1993* occurred during the recruitment process?
 - (6)
 - (a) Has the government issued a Ministerial Direction to the Huon Valley Council to recommence the recruitment process for the Huon Valley Council’s General Manager;
 - (b) if yes, when was the Ministerial Direction issued; and
 - (c) if not, why not?

- (7) (a) Does the government believe that the identified breaches by the Auditor-General warrant an order for the dismissal of a councillor or councillors under Section 226 of the *Local Government Act 1993*;
- (b) if yes, when was this order issued; and
- (c) if not, why not?

The Leader answered,

Questions (1) to (3)

Under the *Local Government Act 1993* (the Act) the recruitment of a general manager is a function which each council must independently administer.

The independent review found that the Council's conduct in managing the conflict of interest fell below expected standards, but it did not breach the Act, the Code of Conduct or Council's Governance Framework.

In response to this matter, the Minister for Local Government and Planning has already sought advice in relation to issuing a ministerial order under section 61A of the Local Government Act, to provide minimum standards for general manager recruitment, appointment, and performance management moving forward.

Question (4)

The Director of Local Government appropriately referred this matter to Tasmania Police for consideration. This is now a matter for Tasmania Police to review.

Question (5)

The Auditor-General's Report and the independent review both ruled out any breaches of the *Local Government Act 1993*.

Question (6)

The Government has not issued a Ministerial Direction to the Huon Valley Council to recommence the recruitment process for the Council's general manager. The Minister for Local Government and Planning is not presently empowered under the *Local Government Act 1993* to interfere with the contractual operations of a council in this manner.

Question (7)

Section 226 of the Act (Dismissal of councillors) is only relevant if a Board of Inquiry has first been established by the Minister.

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

- (1) Report of the Auditor-General No. 3 of 2021-22. Covid-19 – Response to social impacts.
- (2) Office of the Governor of Tasmania: Annual Report 2020-2021.
- (3) Commissions of Inquiry Act 1995: Statutory Rules 2021, containing Commissions of Inquiry Regulations 2021.
- (4) Keystone Tasmania: Annual Report 2020-2021.
- (5) Public Health Act 1997: Guidelines for Notifying Coronavirus Disease 2019 (COVID-19).
- (6) Taxi and Hire Vehicle Industries Act 2008: Statutory Rules 2021, No. 70, containing Taxi Industry Amendment Regulations 2021.
- (7) Taxi and Hire Vehicle Industries Act 2008: Statutory Rules 2021, No. 71, containing Luxury Hire Car Industry Amendment Regulations 2021.
- (8) Vehicle and Traffic Act 1999: Statutory Rules 2021, No. 75, containing Vehicle and Traffic (Driver Licensing and Vehicle Registration) Amendment Regulations (No. 4) 2021.

- (9) Health Service Establishments Act 2006: Statutory Rules 2021, No. 76, containing Health Service Establishments Regulations 2021.

7 REPORT OF THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON TASWATER OPERATIONS.— Ms *Rattray* presented a Report of the Legislative Council Select Committee on Taswater Operations, together with evidence taken by the Committee.

Ordered, That the Report be received. (Ms *Rattray*)

Ordered, That the Report be printed. (Ms *Rattray*)

Ordered, That consideration of the Report and its noting be made an Order of the Day. (Ms *Rattray*)

8 REPORT OF THE PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS REVIEW OF THE AUDITOR-GENERAL REPORT NO. 4 2016-17: EVENT FUNDING.— Ms *Forrest* presented a Report of the Parliamentary Standing Committee of Public Accounts Review of the Auditor-General Report No. 4 of 2016-2017 Event Funding.

Ordered, That the Report be received. (Ms *Forrest*)

Ordered, That the Report be printed. (Ms *Forrest*)

Ordered, That consideration of the Report and its noting be made an Order of the Day. (Ms *Forrest*)

9 REPORT OF THE PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS ANNUAL REPORT 2020-21.— Ms *Forrest* presented the the Parliamentary Standing Committee of Public Accounts Annual Report 2020-21.

Ordered, That the Report be received. (Ms *Forrest*)

Ordered, That the Report be printed. (Ms *Forrest*)

10 ROYAL ASSENT TO BILL.— The President read a Message from Her Excellency the Governor as follows:—

MESSAGE

Barbara Baker, Governor

A Bill for an Act to amend the *Guardianship and Administration Act 1995*
Guardianship and Administration Amendment (Advance Care Directives) Act 2021
(Bill No. 14; Act No. 15 of 2021)

having been presented to the Governor for the Royal Assent, she has, in the name of Her Majesty the Queen, assented to the said Bill.

Government House, Hobart, 3 November 2021

11 ROYAL ASSENT TO BILLS.— The President read a Message from Her Excellency the Governor as follows:

MESSAGE

Barbara Baker, Governor

A Bill for an Act to amend the *Guardianship and Administration Act 1995*, the *Industrial Relations Act 1984*, the *Justices of the Peace Act 2018*, the *Legal Profession Act 2007*, the *Mental Health Act 2013* and the *Workers Rehabilitation and Compensation Act 1988*, so as to validate certain appointments, actions and decisions purportedly made under those Acts, and to amend certain provisions of the *Industrial Relations Act 1984* in relation to the appointment of members of the Tasmanian Industrial Commission and to provide for certain transitional arrangements in relation to such amendments
Validation Act 2021
(Bill No 39 of 2021; Act No. 19 of 2021)

A Bill for an Act to amend the Tasmanian Civil and Administrative Tribunal Act 2020
Tasmanian Civil and Administrative Tribunal Amendment Act 2021
(Bill No 46 of 2021; Act No. 17 of 2021)

A Bill for an Act An Act to amend certain Acts and regulations, and to repeal or rescind certain Acts and regulations, consequential to the enactment of the *Tasmanian Civil and Administrative Tribunal Amendment Act 2021*
Tasmanian Civil and Administrative Tribunal (Consequential Amendments) Act 2021
(Bill No 47 of 2021; Act No. 18 of 2021)

having been presented to the Governor for the Royal Assent, she has in the name of Her Majesty the Queen, assented to the said Bills.

Government House, Hobart, 5 November 2021

12 MOTION WITHOUT NOTICE.— *Ordered*, That Mrs *Hiscutt* have leave to move a Motion without Notice.

13 LEAVE OF ABSENCE.— *Ordered*, That the Honourable Member for Rosevears, (Ms *Palmer*) and the Honourable Member for Pembroke (Ms *Siejka*) be granted leave of absence from the service of the Council for this day's sitting. (Mrs *Hiscutt*)

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

- (1) Mr *Gaffney* – Medicines Safety and the role of pharmacists in our health care system ;
- (2) Ms *Ratray* – Burlington Berries;
- (3) Ms *Armitage* – Northern Netball Association; and
- (4) Ms *Forrest* – Burnie High School Musical, Sleeping Beauty.

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

15 STATUTORY RULES 2019 NO. 63 FISHERIES (ABALONE) AMENDMENT RULES DISALLOWANCE.— A Motion was made (Ms *Webb*) and the Question was proposed, That the following parts of Statutory Rules 2019, No. 63, Fisheries (Abalone) Amendment Rules 2019 dated 23 September 2019 made under the *Living Marine Resources Management Act 1995* and laid upon the Table of the Council on 19 November 2019, namely,

- (a) Section 9, Rule 18 amended (Quantity of abalone), paragraphs (a) and (c); and
- (b) Section 10, Rule 18A inserted (18A Quantity of abalone in eastern region)

be disallowed as provided by Section 47 of the Acts Interpretation Act 1931.

A Debate arose thereupon.

Ordered, That Ms *Webb*, have leave to Table the following two documents —

TARFISH Briefing to Legislative Council on the proposed Abalone Rules Disallowance motion relating to Amendments to Fisheries (Abalone) Rules 2017 (November 2021); and

Timeline of Key RecFAC and AbFAC meetings and other points of note for the Amendments to the Abalone Management Plan and Implementation of Size Limit Changes and Harvest Strategy.

Ordered, That Mr *Duigan* have leave to Table a document titled University of Tasmania Institute of Marine and Antarctic Studies East Coast abalone fishery (Tasman Island – Musselroe).

16 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.

17 QUESTION TIME.— The President called for Questions without Notice. There were seven Questions asked.

18 STATUTORY RULES 2019 NO. 63 FISHERIES (ABALONE) AMENDMENT RULES DISALLOWANCE.—

The Council resumed the Debate on the Question, That the following parts of Statutory Rules 2019, No. 63, Fisheries (Abalone) Amendment Rules 2019 dated 23 September 2019 made under the *Living Marine Resources Management Act 1995* and laid upon the Table of the Council on 19 November 2019, namely,

- (a) Section 9, Rule 18 amended (Quantity of abalone), paragraphs (a) and (c); and
- (b) Section 10, Rule 18A inserted (18A Quantity of abalone in eastern region)

be disallowed as provided by Section 47 of the *Acts Interpretation Act 1931*.

And the Question being put,

Council divided.

AYES 7

NOES 5

Ms Armitage
Mr Gaffney (Teller)
Ms Lovell
Dr Seidel
Mr Valentine
Ms Webb
Mr Willie

Mr Duigan
Ms Forrest
Mrs Hiscutt
Ms Howlett
Ms Rattray (Teller)

It was resolved in the Affirmative.

19 PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS REPORT: REVIEW OF THE TASMANIAN GOVERNMENT FISCAL SUSTAINABILITY REPORT 2021.—

A Motion was made (Ms Forrest) and the Question was proposed, That the Parliamentary Standing Committee of Public Accounts Report: Review of the Tasmanian Government Fiscal Sustainability Report be considered and noted.

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

20 BILL NO. 43. — The Land (Miscellaneous Amendments) Bill 2021 was read the Third time and passed.

21 BILL NO. 43.— A Message to the House of Assembly:—

MR SPEAKER,

The Legislative Council has this day agreed, without Amendment, to a Bill intituled, ‘A Bill for an Act to amend the *Abandoned Lands Act 1973*, the *Associations Incorporation Act 1964*, the *Conveyancing and Law of Property Act 1884*, the *Conveyancing and Law of Property (Building Title Plans) Regulations 2012*, the *Homes Act 1935*, the *Land Acquisition Act 1993*, the *Land Titles Act 1980*, the *Land Titles Regulations 2012*, the *Local Government (Building and Miscellaneous Provisions) Act 1993*, the *Local Government (Highways) Act 1982*, the *Nature Conservation Act 2002*, the *Neighbourhood Disputes About Plants Act 2017*, the *War Service Land Settlement Act 1950* and the *Wellington Park Act 1993*’.

Legislative Council, 9 November 2021

C.M. FARRELL, *President*

22 BILL NO. 26. — The Living Marine Miscellaneous Amendments (Digital Processes) Bill 2021 was read the Third time and passed.

23 BILL NO. 26.— A Message to the House of Assembly:—

MR SPEAKER,

The Legislative Council has this day agreed, without Amendment, to a Bill intituled, ‘A Bill for an Act to amend the *Living Marine Resources Management Act 1995* and the *Fishing (Licence Ownership and Interest) Registration Act 2001*’.

Legislative Council, 9 November 2021

C.M. FARRELL, *President*

24 BILL NO. 40.— The Order of the Day was read for the further consideration in Committee of the *Alcohol and Drug Dependency Repeal Bill 2021*.

And the President having left the Chair, the Council resolved itself into the said Committee.

(In the Committee)

Ms *Forrest* in the Chair.

Clauses 9 as read further considered.

Amendment made (Dr *Seidel*)

Page 7, paragraph (b).

Leave out the paragraph.

Clause as amended agreed to.

Clauses 10 to 12 agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill to be reported with Amendment.

The Council being resumed, Ms *Forrest* reported that the Committee had gone through the Bill, and directed her to report the same to the Council with Amendment.

Ordered, That the consideration of the Bill as amended in Committee be made an Order of the Day for tomorrow. (Mrs *Hiscutt*)

25 BILL NO. 45.— The Order of the Day was read for the Second reading of the Gaming Control Amendment (Future Gaming Market) Bill 2021.

A Motion was made (Mrs *Hiscutt*), and the Question was proposed, That the Bill be now read the Second time.

A Debate arose thereupon.

Ordered, That the Debate be adjourned. (Ms *Forrest*)

26 BILL NO. 48.— A Message from the House of Assembly:—

MR PRESIDENT,

The House of Assembly hath passed a Bill, intituled — ‘A Bill for an Act to establish Stadiums Tasmania to oversee the sound use, management and development of major public stadiums and related assets in Tasmania and for related purposes’ ,

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

House of Assembly, 9 November 2021

MARK SHELTON, *Speaker*

The Bill was read the First time.

Ordered, That the Second reading of the Bill be made an Order of the Day for Tuesday next. (Mrs *Hiscutt*)

27 BILL NO. 57.— A Message from the House of Assembly:—

MR PRESIDENT,

The House of Assembly hath passed a Bill, intituled — ‘A Bill for an Act to amend the *Traffic Act 1925*’
,

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

House of Assembly, 9 November 2021

MARK SHELTON, *Speaker*

The Bill was read the First time.

Ordered, That the Second reading of the Bill be made an Order of the Day for Tuesday next. (Mrs *Hiscutt*)

28 ADJOURNMENT.— *Ordered*, That the Council will at its rising adjourn until 11.00 o’clock a.m. on Wednesday, 10 November 2021. (Mrs *Hiscutt*)

A Motion was made (Mrs *Hiscutt*) and the Question was put, That the Council do now adjourn.

It was resolved in the Affirmative.

The Council adjourned at 5.54 o’clock p.m.

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

Briefing:

- *Disallowance Motion: Statutory Rules 2019, No 63, Fisheries (Abalone) Amendment Rules 2019*