



# LEGISLATIVE COUNCIL

SESSION OF 2019 - 2020

(SECOND SESSION OF THE FORTY-NINTH PARLIAMENT)

## VOTES AND PROCEEDINGS

No. 63

TUESDAY, 25 AUGUST 2020

- 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, present and emerging. We recognise them as the traditional and original owners and the continuing custodians of this land.”
- 3 PRAYERS.**— The President read Prayers.
- 4 WRITS FOR THE RETURN OF NEW MEMBERS.**— The Clerk of the Council laid upon the Table of the Council writs for the return of new Members for the Electoral Divisions of Rosevears and Huon and certifying to *Joanne Lesley Palmer* and *Bastian Manfred Seidel* respectively, having been declared elected on the 12<sup>th</sup> day of August 2020 to serve in the Legislative Council.
- 5 AUTHORISATION TO ADMINISTER OATH OR AFFIRMATION.**— The Clerk of the Council said:—  
  
“With the authority of a Proclamation issued by the Governor in accordance with Section 30 of the *Constitution Act 1934* I am duly authorised to administer the Oath of Allegiance or Affirmation as prescribed by the *Promissory Oaths Act 2015*”.
- 6 NEW MEMBER FOR ROSEVEARS SWORN.**— *Joanne Lesley Palmer* returned upon a new Writ for Rosevears took the Oath of Allegiance required by law.
- 7 NEW MEMBER FOR HUON SWORN.**— *Bastian Manfred Seidel* returned upon a new Writ for Huon made the appropriate Affirmation required by law.
- 8 STATEMENT BY THE PRESIDENT – WELCOME NEW MEMBERS.**—  
The President said —

“Honourable Members before moving to formal business I take this opportunity to welcome to this House and the Parliament the newly elected Members for Rosevears and Huon and wish them well in their role representing the people that have duly elected them.

I know that I speak on behalf of all Members, Chamber Officers and staff when I say we are ready to offer any support, advice or assistance that you may require, particularly in the early stages of your elected term. Please do not hesitate to ask. You will find, I am sure, that your role at times will be challenging but know you can be assured that you will find it satisfying and rewarding as you now get not only the opportunity to assist and represent the people of your electorate here in the Legislative Council but to also contribute to the improved welfare of the people of Tasmania.

I extend a warm welcome to you.”

**9 E-PETITION.**— Mr *Willie* brought up an E-Petition from 1649 citizens of Tasmania concerned with wildlife safety measures on Tasmanian roads.

*Ordered*, That the Petition be received. (Mr *Willie*)

**10 EXPUNGEMENT OF HISTORICAL OFFENCES.**— Ms *Webb* to ask the Honourable Leader of the Government — With reference to the *Expungement of Historical Offences Act 2017* (‘the Act’) and, in particular, Section 32 under which the Minister for Justice is to cause an independent review of the operation of the Act to be completed within six months after the second anniversary of its commencement:

- (1) What progress has the Minister made towards the review of the operation of the Act noting that it is required to be completed by October 2020?
- (2) Have the persons who will carry out the review been appointed, noting that Section 32(1) of the Act requires that a majority of these persons must not be employees of the State or of any agency of the State?
- (3) Will the persons carrying out the review include persons with legal expertise and, in particular, expertise in the laws and practices that have affected the LGBTI community in Tasmania?
- (4) Will the persons carrying out the review include persons who are members of the Tasmanian LGBTI community with experience engaging with and representing the views of that community?
- (5) Will the terms of reference for the review include:
  - (a) feedback from all applicants for expungement and from those who are eligible but have not yet applied;
  - (b) comparative analysis with other jurisdictions; and
  - (c) consideration of possible additional ‘restorative justice’ initiatives, in addition to the expungement of criminal records, that could further address the harmful legacy of the historic laws covered by the Act?
- (6) In light of the COVID-19 pandemic, does the Government intend to seek an extension to the deadline for the completion of the review to ensure a comprehensive review process can take place?

The Leader answered,

The Tasmanian Government introduced the scheme as an important step forward in addressing previous laws that were unfair and unjust for many people in the community who endured disadvantage, discrimination and stigma.

As has been stated, section 32 of the *Expungement of Historical Offences Act 2017* requires an independent review of the operation of the Act to be completed within 6 months after the second anniversary of the Act’s commencement.

Former Magistrate Melanie Bartlett has been appointed to lead an independent review of the operation of the *Expungement of Historical Offences Act 2017*.

Ms Bartlett was a full-time Magistrate based in the North-West from 2009 to 2015 and had previously served as a temporary Magistrate from 2005.

Ms Bartlett has also served as a member of the Mental Health Tribunal, the Guardianship and Administration Board, the Anti-Discrimination Tribunal and the Legal Aid Commission, as well as serving as President and Vice-President of the Law Society of Tasmania.

The Act, which commenced on 9 April 2018, provides a scheme enabling the expungement of charges and convictions for historical homosexual and cross-dressing offences.

The review will report on the implementation of the Act and assess whether it is operating effectively and as intended.

It will include public and targeted consultation, and a call for submissions from stakeholder representative groups.

Women's Legal Service Solicitor Taya Ketelaar-Jones will be assisting Ms Bartlett with the review. At this stage, the Government's intention is for the review to be completed within the required timeframes set out in the Act.

**11 POKER MACHINE OPERATIONS AND COVID-19.**—Ms *Webb* asked the Honourable Leader of the Government — In relation to the planned reopening of Tasmania's poker machine rooms on 26 June 2020, and the government's apparent protocol of responding to the COVID-19 pandemic with an evidence-based approach based on public health advice:

- (1) Does the Government acknowledge that the resumption of operation of poker machine gaming rooms in Tasmania is not comparable to the resumption of the other food, beverage and event aspects of the hospitality industry as, in addition to managing COVID-19 health risks, evidence points to the use of poker machines presenting additional and unique economic and social risks at this time?
- (2) Has the plan and timeline for resuming the operation of poker machines in Tasmania been data-driven and based on health, economic and social impact analysis?
  - (a) if so, please provide that analysis
  - (b) if not, please provide the full rationale and factors considered in making the determination that the resumption of poker machine use was appropriate to occur on 26 June?
- (3) Noting the clear evidence from the Global Financial Crisis (GFC) in 2008-09 where government stimulus payments were shown to have been diverted to poker machines causing losses to spike substantially, what impact analysis has been done to assess the risk that restarting access to poker machines at this time will erode the effectiveness of both Federal and State government economic stimulus efforts (including, but not limited to, increased Job Seeker payments, Job Keeper payments, and early-accessed personal superannuation lump sums) designed to ensure household essential requirements are met and local economies most effectively supported?
- (4)
  - (a) Has the government been lobbied to reopen public access to gaming rooms; and
  - (b) if so, by whom?

The Leader answered,

- (1) When the COVID-19 public health restrictions caused many businesses and services to temporarily close, the reopening of these businesses and services was informed by public health advice that it was safe to do so. Electronic gaming machines (EGMs) are legally permitted to operate in Tasmania. The reopening of gaming venues, including those operating EGMs, has been determined as safe based on public health advice.
- (2) On 26 June 2020, gaming venues, including those with EGMs, were allowed to open under the stage 3 easing of restrictions, along with many other legal businesses subject to public health advice. Each venue is operating under a COVID-19 safety plan that implements the public health measures required under the *COVID Safe Workplace Guidelines for the Gambling Industry*.
- (3) EGMs are a well-regulated gambling activity in Tasmania. Based on the *2017 Social and Economic Impact Study of Gambling in Tasmania*, Tasmania has a relatively low incidence of problem gambling (estimated at 0.6 per cent of Tasmanian adults) compared to other Australian jurisdictions. EGMs are legally permitted to operate in Tasmania and the reopening of gaming venues was based on public health advice that it was safe to do so.
- (4) The reopening of gaming venues was based on public health advice.

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

- (1) Integrity Commission Report No. 1 of 2020: A Summary report an own-motion investigation into misconduct by public officers in the Tasmanian Health Service, North West Region arising from intelligence received by the Commission and risk factors evident in past investigations.
- (2) The Tasmanian Government's response to House of Assembly Select Committee on Housing Affordability's Final Report. August 2020.
- (3) Listening Devices Act 1991: Annual Report 2019-20.
- (4) Health Practitioner Regulation National Law: Health Practitioner Regulation National Law Amendment (Miscellaneous) Regulation 2019.
- (5) Living Marine Resources Management Act 1995: Statutory Rules 2020. Containing Fisheries (Scallop) Rules 2020.
- (6) Poisons Act 1971: Statutory Rules 2020, No. 32, containing Poisons (Exempted Public Institutions) Order 2020.
- (7) Public Health Act 1997: Statutory Rules 2020, No. 34, containing Public Health (Infringement Notices) Amendment Regulations (No.2) 2020.
- (8) Dog Control Act 2000: Statutory Rules 2020, No. 45, containing Dog Control Amendment Regulations 2020.
- (9) Notice under Section 13 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* to extend timeframe for completion of Social and Economic Impact Study of Gambling in Tasmania.
- (10) Notice under Section 23 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* waiving of certain fees under the Mineral Resources Development Act 1995.
- (11) Notice under Section 23 of the *Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020* not apply CPI increase to motor tax for 2020-21.
- (12) Rail Safety National Law National Regulations (Fees and Other Measures) Variation Regulations 2020.
- (13) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising areas of land containing 830m<sup>2</sup> and 7076m<sup>2</sup> situate in the Parish of Perth, Municipal area of Northern Midlands.
- (14) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising area of land containing 10ha situate in the Land District of Melville, Parish of Monmouth, Town of Brighton, Municipal area of Brighton.
- (15) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising area of land containing 125m<sup>2</sup> situate in Bridport Main Road, Municipal area of Dorset.
- (16) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising area of land containing 374m<sup>2</sup> situate in Tasman Highway Great Eastern Drive – Swan River Road Junction, Municipal area of Glamorgan-Spring Bay.
- (17) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising areas of land containing 296m<sup>2</sup>, 124m<sup>2</sup> and 71m<sup>2</sup> situate in Bruny Island Main Road Sealing – Alonnah to Lunawanna, Municipal area of Kingborough.

- (18) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising areas of land containing 64.6m<sup>2</sup>, 281m<sup>2</sup>, 167m<sup>2</sup>, 1603m<sup>2</sup>, 258m<sup>2</sup> and 140m<sup>2</sup> situate in Bruny Island Main Road Sealing – Alonnah to Lunawanna, Municipal area of Kingborough.
- (19) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising area of land containing 47.7m<sup>2</sup> situate in Bruny Island Main Road Sealing – Alonnah to Lunawanna, Municipal area of Kingborough.

**13 MOTION WITHOUT NOTICE.**— *Ordered*, That Mrs *Hiscutt* have leave to move Motions without Notice concerning Committee appointments.

**14 COMMITTEE APPOINTMENTS.**— *Ordered*, That the following Members of the Council be appointment to the following Committees

Ms *Ratray* be appointed to the Committee of Privileges.

Dr *Seidel* be appointed to Government Administration Committee A and the Joint Library Committee and a Message be transmitted to the House of Assembly acquainting them with the Library Committee appointment

Ms *Palmer* be appointed to Government Administration Committee B and the Legislative Council Select Committee on Taswater. (Mrs *Hiscutt*)

**15 JOINT LIBRARY COMMITTEE APPOINTMENT.**— A Message to the House of Assembly:—

MADAM SPEAKER,

The Legislative Council has appointed the Honourable Member for Huon, Dr *Seidel*, to serve on the Joint Committee of both Houses to manage the Library.

*Legislative Council, 25 August 2020*

C.M. FARRELL, *President*

**16 STATEMENT BY THE PRESIDENT – COVID-19 CHAMBER ETIQUETTE.**— The President said —

“Honourable Members, I remind you that we are still operating under COVID-19 conditions in our Chamber. We have kept up to the standard as much as we can in the limited space we have available here.

I apologise to the new Member for Huon who cannot actually assume his seat yet and to other Members who are seated away from their seats, but that is just the way it is at the moment. I also apologise to both new Members that we cannot have vast crowds of people in here for your inaugural speeches, but we will work around that the best we can.

I remind Members when that when they are at the lectern, we have turned them around so it is easier for their papers. We have provided wipes, so Members can wipe the lectern down before and after their contributions. I ask them to then dispose of their tissues in the bins provided and remember to use the hand sanitiser.”

**17 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) Mr *Gaffney* - Voluntary Assisted Dying (EOLC(VAD) Bill 2020)

*Ordered*, That Mr *Gaffney* have to leave to Table a document titled ‘Voluntary Assisted Dying – Tasmania Perspectives’.

- (2) Ms *Ratray* - Mrs Fay Ralph
- (3) Ms *Howlett* - The Late Des Manning
- (4) Mr *Dean* – Tasmania Police - Mandatory Blood Testing
- (5) Ms *Armitage* - The Wombats – The Plight of Wombat Mange
- (6) Ms *Webb* - Disability Voices Tasmania

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

**18 TASMANIAN IRRIGATION ANNUAL REPORT 2018-2019.**— A Motion was made (*Ms Rattray*) and the Question was proposed, That the Tasmanian Irrigation Annual Report 2018-2019 be considered and noted.

A Debate arose thereupon.

**19 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.

**20 QUESTION TIME.**— The President called for Questions without Notice. There were eight Questions asked.

*Ordered,* That *Mrs Hiscutt* have leave to Table a table setting out unauthorised absence rates for students in years 7 -13 as at 14 August 2020 and have the table incorporated into the Hansard record.

**21 TASMANIAN IRRIGATION ANNUAL REPORT 2018-2019.**— The Council resumed the Debate on the Question, That the Tasmanian Irrigation Annual Report 2018-2019 be considered and noted.

And the Question being put,

It was resolved in the Affirmative.

**22 FAMILY VIOLENCE.**— A Motion was made (*Ms Forrest*) and the Question was proposed, That the Legislative Council notes:

- (1) Family violence is evidenced by any of the following types of conduct committed by a person, directly or indirectly against that person's spouse or partner:
  - (a) economic abuse;
  - (b) emotional abuse;
  - (c) intimidation;
  - (d) breaching any existing orders relating to Family Violence;
  - (e) assault (including sexual assault);
  - (f) threats;
  - (g) coercion;
  - (h) verbal abuse;
  - (i) abduction;
  - (j) stalking; or
  - (k) an attempt to do any of those things.
- (2) The Government's ongoing commitment to the prevention of family violence with Premier Gutwein holding the portfolio of Minister for the Prevention of Family Violence;
- (3) The need for a whole of Parliament, non-partisan, whole of government approach to:
  - (a) raising awareness of family violence and violence against women in all settings and challenge attitudes that promote the status quo;
  - (b) the consideration of further law reform to promote and support the safety of victims, predominantly women and children;
  - (c) provide whole of community, evidence based, appropriate and targeted education programs in all areas of the Tasmanian community that;
    - (i) support gender equality;
    - (ii) increase awareness and understanding of the need for cultural change;
    - (iii) improve accountability mechanisms; and
    - (iv) reduce the stigma and silencing of those who have experienced family violence;
  - (d) promote gender equality awareness and training in workplaces;
  - (e) provide adequate resourcing to support the victims of family violence, predominantly women and children, to access;

- (i) safe shelter,
  - (ii) financial support;
  - (iii) social support;
  - (iv) access to justice and legal aid; and
  - (v) psychological and therapeutic support;
  - (f) provide support for and access to evidence based programs for perpetrators to modify behaviour; and
  - (g) role-modelling of respectful relationships.
- (4) The important role of police and emergency services as first responders to incidents of family violence and domestic abuse.

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

**23 LEGISLATIVE COUNCIL GOVERNMENT ADMINISTRATION COMMITTEE ‘A SHORT INQUIRY PROCESS REPORT ON SERVICES AND SUPPORTS AVAILABLE TO TASMANIANS NOT ELIGIBLE FOR NDIS.—**

A Motion was made (Ms *Forrest*) and the Question was proposed, That the Report of the Legislative Council Government Administration Committee ‘A’ Short Inquiry Process Report on Services and Supports Available to Tasmanians not Eligible for the NDIS be considered and noted.

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

**24 BILL NO. 27.—** 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 *Corrections Act 1997* to enable electronic monitoring of offenders to be a condition of parole’, to which the House desires the concurrence of the Legislative Council.

*House of Assembly, 25 August 2020*

S. HICKEY, *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*)

**25 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, 26 August 2020.

It was resolved in the Affirmative.

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

The Council adjourned at 6.24 o’clock p.m.

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

**Briefing:**

- *End of Life Choices (Voluntary Assisted Dying) Bill 2020*