

LEGISLATIVE COUNCIL

SESSION OF 2018

(FIRST SESSION OF THE FORTY-NINTH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 40

THURSDAY, 29 NOVEMBER 2018

- **1 COUNCIL MEETS.** The Council met at 11.00 o'clock in the forenoon and the President read Prayers.
- **PAPERS.** The Clerk of the Council laid upon the Table the following Papers:
 - (1) Council of Obstetric & Paediatric Mortality & Morbidity: Annual Report 2016.
 - (2) Administrator of the National Health Funding Pool: Annual Report 2017-2018.
 - (3) Australian Health Practitioner Regulation Agency: Annual Report 2017-2018.
 - (4) Supreme Court of Tasmania: Annual Report 2017-2018.
 - (5) The Motor Accidents Compensation Tribunal: Annual Report 2017-2018.
 - (6) The Anti-Discrimination Tribunal: Annual Report 2017-2018.
 - (7) Parole Board of Tasmania: Annual Report 2017-2018.
 - (8) Custodial Inspector: Inspection of Ashley Youth Detention Centre in Tasmania, 2017 Health and Wellbeing Inspection Report.
 - (9) Custodial Inspector: Inspection of Adult Custodial Services in Tasmania, 2017 Care and Wellbeing Inspection Report.
 - (10) Equal Opportunity Tasmania: Annual Report 2017-2018.
 - (11) The Magistrates Court of Tasmania: Annual Report 2017-2018.
- **3 BILL NO. 56.** The Order of the Day was read for the consideration of the Burial and Cremation Act 2018 as amended in Committee of the Whole Council.

Ordered, That the Bill, as amended in the Committee, be now taken into consideration.

The Council, accordingly, proceeded to take the same into consideration.

The Amendment was read the First time.

The said Amendment, being read the Second time, was agreed to.

Ordered, That the Bill as amended in the Committee, be now read the Third time. (Mrs Hiscutt)

The Bill was read the Third time and passed.

4 BILL NO. 56.— A Message to the House of Assembly:—

MADAM SPEAKER.

The Legislative Council having this day agreed, with Amendment, to a Bill intituled — 'A Bill for an Act to amend the *Burial and Cremation Amendment Bill 2002*',

returns the same to the House of Assembly, and requests its concurrence therein.

Legislative Council, 29 November 2018

J.S. WILKINSON, President

5 SITTING SUSPENDED.— *Resolved*, That the Sitting of the Council be suspended until the ringing of the Division bells. (Mrs *Hiscutt*)

The Sitting was suspended at 11.05 o'clock a.m. and resumed at 12.11 o'clock p.m.

- **6 MOTION WITHOUT NOTICE.** *Ordered*, That Mrs *Hiscutt* have leave to move a Motion without Notice.
- **7 ORDER OF BUSINESS.** *Ordered*, That intervening business be postponed until after consideration of Order of the Day No. 4. (Mrs *Hiscutt*)
- **8 BILL NO. 50.** The Order of the Day was read for the Second reading of the Macquarie Point Development Corporation Amendment Bill 2018.

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

A Debate arose thereupon.

9 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.

- **10 QUESTION TIME.** The President called for Questions without Notice. There were six Questions asked.
- **BILL NO. 50.** The Council resumed the Debate on the Question, That the Macquarie Point Development Corporation Amendment Bill 2018 be now read the Second time.

And the Question being put,

It was resolved in the Affirmative.

And the Bill was, accordingly, read the Second time and committed to a Committee of the Whole Council.

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

(In the Committee)

Ms Forrest in the Chair.

Clauses 1 to 20 agreed to.

Title agreed to.

Bill to be reported without 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 without Amendment.

Ordered, That Mrs Hiscutt have leave to move a Motion without Notice.

A Motion was made (Mrs *Hiscutt*) and the Question was proposed, That Standing Order No 279 be suspended in respect of this Bill, in order that the Bill may now be read the Third time.

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

Ordered, That the Bill be now read the Third time (Mrs Hiscutt)

The Bill was read the Third time and passed.

BILL NO. 50.— A Message to the House of Assembly:—

MADAM SPEAKER,

The Legislative Council has this day agreed, without Amendment, to the Bill intituled, 'A Bill for an Act to amend the *Macquarie Point Development Corporation Act 2012*'.

Legislative Council, 29 November 2018

J.S. WILKINSON, President

13 BILL NO. 46.— The Order of the Day was read for resuming the Debate on the Question, That the Brand Tasmania Bill 2018 be now read the Second time.

The Question was again proposed and the Council resumed the Debate.

And the Question being put,

It was resolved in the Affirmative.

And the Bill was, accordingly, read the Second time and committed to a Committee of the Whole Council.

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

(In the Committee)

Ms Rattray in the Chair.

Clauses 1 to 9 agreed to.

Clause 10 Amendments made (Ms Forrest)

First amendment

Page 12, subclause (1), paragraph (c).

Leave out the paragraph.

Insert instead the following paragraph:

(c) one person who is nominated by Tourism Tasmania;

Second amendment

Same page, same subclause, paragraph (d), after "less than".

Leave out "5, and not more than 7".

Insert instead "6, and not more than 8".

Third amendment

Page 13, subclause (3), paragraph (e), after "heritage conservation,".

Insert "biosecurity, ".

Clause 10 as amended agreed to.

Clauses 11 to 30 agreed to.

Schedules 1 to 5 agreed to.

Title agreed to.

Bill to be reported with Amendments.

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

Ordered, That Mrs Hiscutt have leave to move a Motion without Notice.

Ordered, That Standing Order No. 280 be suspended in respect of this Bill, in order that the Bill as amended in the Committee may be now taken into consideration. (Mrs *Hiscutt*)

Ordered, That the Bill, as amended in the Committee, be now taken into consideration.

The Council, accordingly, proceeded to take the same into consideration.

The Amendments were read the First time.

The said Amendments, being read the Second time, were agreed to.

Ordered, That the Bill as amended in the Committee, be now read the Third time. (Mrs Hiscutt)

The Bill was read the Third time and passed.

14 BILL NO. 46.— A Message to the House of Assembly:—

MADAM SPEAKER,

The Legislative Council has this day agreed, with Amendments, to the Bill intituled, 'A Bill for an Act to establish Brand Tasmania and for related purposes'.

Legislative Council, 29 November 2018

J.S. WILKINSON, President

BILL NO. 48.— The Order of the Day was read for the Second reading of the Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Bill 2018.

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. (Mrs *Hiscutt*)

16 SITTING SUSPENDED.— *Resolved*, That the Sitting of the Council be suspended until the ringing of the Division bells. (Mrs *Hiscutt*)

The Sitting was suspended at 4.42 o'clock p.m. and resumed at 6.43 o'clock p.m.

BILL NO. 48.— The Council, according to Order, resumed the Debate on the Question, That the Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Bill 2018 be now read the Second time.

And the Question being put,

It was resolved in the Affirmative.

And the Bill was, accordingly, read the Second time and committed to a Committee of the Whole Council.

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

(In the Committee)

Ms *Forrest* in the Chair.

Clauses 1 read.

Ordered, That Mrs *Rattray* have leave to Table a document titled Frequently Asked Questions Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Bill 2018. and have the document incorporated into the Hansard record.

Clause 1 as read agreed to.

Clauses 2 to 30 agreed to.

Title agreed to.

Bill to be reported without 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 without Amendment.

Ordered, That Mrs Hiscutt have leave to move a Motion without Notice.

Ordered, That Standing Order No. 279 be suspended in respect of this Bill, in order that the Bill may be now read the Third time. (Mrs *Hiscutt*)

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

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

The Bill was read the Third time and passed.

18 BILL NO. 48.— A Message to the House of Assembly:—

MADAM SPEAKER.

The Legislative Council has this day agreed, without Amendment, to the Bill intituled, 'A Bill for an Act to amend the *Land Use Planning and Approvals Act 1993* and the *Tasmanian Planning Commission Act 1997*'.

Legislative Council, 29 November 2018

J.S. WILKINSON, President

19 MOTION WITHOUT NOTICE.— *Ordered*, That Mr *Dean* have leave to move a Motion without Notice.

20 LEGISLATIVE COUNCIL SELECT COMMITTEE INTO AFL IN TASMANIA.

— A Motion was made (Mr *Dean*) and the Question was proposed, That the Terms of Reference of the Legislative Council Select Committee into AFL in Tasmania be amended as follows —

by deleting Term of Reference No. 5 and by deleting Term of Reference No. 7 and inserting instead the following Term of Reference — $\,$

If Tasmania were to establish an AFL team, what would be the optimal time for it to commence.'

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

21 SECTION 19 RETURN JUNE 2018 QUARTER LEAVE TO TABLE ANSWERS TO MEMBERS QUESTIONS AND INCORPORATE ANSWERS INTO

HANSARD.—*Ordered*, That Mrs *Hiscutt* have leave to Table answers to Questions raised in the Section 19 June Quarter Debate and have the answer incorporated into the Hansard record.

BILL NO. 52.— A Message from the House of Assembly:—

MR PRESIDENT,

The House of Assembly hath passed a Bill, intituled 'An Act to amend the Supreme Court Civil Procedure Act 1932'.

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

House of Assembly, 29 November 2016

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)

23 CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT. — A Message from the House of Assembly:—

MR PRESIDENT,

The House of Assembly has agreed to the following Resolution communicated to it by the Legislative Council on 27 November 2018.

Resolved, With Reference to the Report No. 3 of the Joint Standing Committee on Integrity, the House of Assembly and the Legislative Council adopt a Code of Conduct for all Members of the Parliament of Tasmania in the following terms —

PREAMBLE

Members of Parliament recognise that their actions have an impact on the lives of all Tasmanian people. Fulfilling their obligations and discharging their duties responsibly requires a commitment to the highest ethical standards to maintain and strengthen the democratic traditions of the State and the integrity of its institutions.

Compliance with the law may not always be enough to guarantee an acceptable standard of conduct. Members must not only act lawfully, but also in a manner that will withstand close public scrutiny.

This Code sets out ethical standards and principles to assist Members in observing expected standards of conduct in public office and to act as a benchmark against which their conduct can be measured.

Neither the law nor this Code is designed to be exhaustive, and there may be instances where Members find it necessary to adopt more stringent norms of conduct in order to protect the public interest, and to enhance public confidence and trust. In making choices about conduct, Members should have regard to community values and standards.

Members should also, where possible, avoid giving unnecessary offence to groups in the community whose beliefs and views differ from those held by the Members or by groups the Member represents.

Members are expected to promote and support this Code by leadership and example.

STATEMENT OF VALUES

This Code is derived from the fundamental values of the institution of the Parliament in this State. By adopting and upholding this Code, all Members of Parliament share in and support these values.

As Members of Parliament, we value:

- the public interest and the fundamental objective of public office to act solely in terms of the public interest;
- the improvement of the economic and social conditions of all Tasmanian people, and our service to our fellow citizens to achieve this;
- the promotion of human, social and environmental welfare through the responsible execution of our official duties:

- integrity, honesty, accessibility, accountability, fairness, transparency, courtesy, respect and understanding, without harassment, victimisation or discrimination;
- respect for differences, equity and fairness in political dealings, with fellow Members of Parliament; and
- ethical political practices that support the democratic traditions of our State and its institutions, and the rejection of political corruption.

ETHICAL STANDARDS

Conflict of interest

A Member protects and upholds the public interest by taking all reasonable steps to avoid, disclose and manage any conflict of interest that arises, or is likely to arise, between their personal interests and their official duties.

A conflict of interest may be financial or non-financial and may be potential, actual or perceived.

A conflict of interest does not exist where the Member, their spouse or domestic partner, relative or associate is affected only as a member of the public or of a broad class of persons.

Each Member is individually responsible for avoiding and managing conflicts of interest.

Declaration of personal interests

A Member is personally responsible for full and accurate disclosure of their financial and other interests, in accordance with their obligations under the *Parliamentary (Disclosure of Interests)* Act 1996.

Use of public office

A Member makes proper use of their office to represent and serve the community, conducting themselves in ways that maintains the trust and confidence of the public.

A Member must not use their influence as a Member to improperly obtain appointment, promotion, advancement, transfer or any other advantage or benefit on behalf of themselves or other persons.

A Member must not appoint their spouse, domestic partner or relative to a position in their own office.

A Member must not receive or seek to receive any fee, payment, retainer or reward, nor permit any compensation to accrue to their beneficial interest, for or on account of, or as a result of, their position as a Member, other than compensation to which they are entitled as a Member of Parliament.

Use of official information

A Member makes appropriate use of official information strictly for the purpose of performing their role as a Member of Parliament in the best interests of the public.

A Member must take care to protect confidential and official information in their possession or knowledge.

A Member must not use official information which is not in the public domain, or information obtained in confidence in the course of their official duties or position, for the advantage or benefit of themselves or another person.

Use of public resources

A Member uses public resources and assets strictly for the purpose of performing their role as a Member of Parliament, and in accordance with any rules and guidelines regarding the use of those resources and assets.

A Member must not use public resources, or allow such resources to be used by others, for personal advantage or benefit.

A Member must be scrupulous in ensuring the legitimacy and accuracy of any claim they make on the public account.

Gifts and benefits

A Member must adhere to standards of transparency and accountability in relation to gifts or benefits, and carry out their duties as a Member of Parliament without being influenced by gifts or benefits.

A Member must not solicit, encourage or accept gifts, benefits or favours which may improperly influence the Member in the exercise of their duties, or may give the appearance of improper influence. Exceptions to this are incidental gifts or customary hospitality of nominal value.

A Member must declare gifts and benefits received, as required by the *Parliamentary (Disclosure of Interests) Act 1996*.

Accuracy of statements

A Member must only make statements in Parliament and in public that are, to the best of their knowledge, accurate and honest.

A Member must not mislead Parliament or the public in statements that they make.

Whether any misleading was intentional or unintentional, a Member is obliged to correct the Parliamentary record, or the public record, at the earliest opportunity in a manner that is appropriate to the circumstances.

Outside employment

A Member must manage employment outside of Parliament to ensure that any such employment does not interfere with their duties as a Member of Parliament.

A Member must not engage in any employment outside Parliament that involves a substantial commitment of time and effort to the extent that it interferes with their duties as a Member.

Upholding the principles of respect, justice and inclusion for all Tasmanians

Members agree to respect the religious and cultural beliefs of others, in accordance with the Universal Declaration of Human Rights.

Members agree to uphold the principles of justice and inclusion among our multicultural society, making efforts to generate understanding of all groups.

Members agree to recognise and value diversity as an integral part of Australia's social and economic future.

Members should promote reconciliation with Indigenous Australians.

Parliamentary conduct

A Member conducts themselves in Parliament in ways that will protect the public interest, and enhance public confidence and trust in Parliament.

A Member must observe proper standards of parliamentary conduct by complying with Standing Orders, and directions of the Presiding Officer.

A Member must take particular care to consider the rights and reputations of others before making use of the unique protection available under parliamentary privilege. This privilege should never be used recklessly or without due regard to accuracy.

and has filled up the blank with the words 'House of Assembly and the'.

House of Assembly, 29 November 2016

S. HICKEY, Speaker

24 BILL NO. 46.— A Message from the House of Assembly:—

MR PRESIDENT,

The House of Assembly doth agree to the Amendments made by the Legislative Council to the Bill intituled — 'A Bill for an Act to establish Brand Tasmania and for related purposes',

House of Assembly, 29 November 2016

S. HICKEY, Speaker

25 BILL NO. 32.— A Message from the House of Assembly:—

MR PRESIDENT,

The House of Assembly doth agree to the Amendments made by the Legislative Council to the Bill intituled — 'A Bill for an Act to amend the *Residential Tenancy Act 1997* and the *Family Violence Act 2004*',

House of Assembly, 29 November 2016

S. HICKEY, Speaker

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

MR PRESIDENT,

The House of Assembly doth agree to the Amendments made by the Legislative Council to the Bill intituled — 'A Bill for an Act to amend the *Building Act 2016*, the *Occupational Licensing Act 2005*, the *Building Regulations 2016*, the *Occupational Licensing (Building Services Work) Regulations 2016*, the *Residential Building Work Contracts and Dispute Resolution Regulations 2016*, and the *Urban Drainage (General) Regulations 2016*'.

House of Assembly, 29 November 2016

S. HICKEY, Speaker

BILL NO. 56.— A Message from the House of Assembly:—

MR PRESIDENT,

The House of Assembly doth agree to the Amendment made by the Legislative Council to the Bill intituled — 'A Bill for an Act to amend the *Burial and Cremation Act 2002*'.

House of Assembly, 29 November 2016

S. HICKEY, Speaker

28 ADJOURNMENT.— A Motion was made (Mrs *Hiscutt*) and the Question was proposed, That the Council will at its rising adjourn until 9.30 am on Friday, 15 March 2019. (Mrs *Hiscutt*)

And the Question being put,

It was resolved in the Affirmative.

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

A Debate arose thereupon.

Ordered, That Mrs *Hiscutt* have leave to Table a letter to Members of the Legislative Council from the Premier and the Attorney-General and have the letter incorporated into the Hansard record.

And the Question being put,

It was resolved in the Affirmative.

The Council adjourned at 8.00 o'clock p.m.

D.T. PEARCE, Clerk of the Council.

Briefings:

- Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Bill 2018
- Macquarie Point Development Corporation Amendment Bill 2018

ROYAL ASSENT TO BILLS.—

MESSAGE

Kate Warner, Governor

A Bill for an Act to amend the *Emergency Management Act* 2006 (Bill No. 25 (Act No. 31 of 2018 Emergency Management Amendment Act 2018))

A Bill for an Act to amend the *Traffic Act 1925* and the *Local Government (Highways) Act 1982* (Bill No. 30 (*Act No. 32 of 2018 Traffic and Related Legislation Amendment Act 2018*))

A Bill for an Act to amend the Annulled Convictions Act 2003, the Firearms Act 1996, the Forensic Procedures Act 2000 and the Health Practitioner Regulation National Law (Tasmania) Act 2010 (Bill No. 31 (Act No. 28 of 2018 Australian Crime Commission Legislation (Miscellaneous Amendments Act 2018))

A Bill for an Act to amend the Corrections Act 1997 (Bill No. 33 (Act No. 27 of 2018 Corrections Amendment Act 2018))

A Bill for an Act to amend the *Crime (Confiscation of Profits) Act 1993* and the *Crime (Confiscation of Profits) Regulations 2014* (Bill No. 34 (Act No. 30 of 2018 Crime (Confiscation of Profits) Amendment Act 2018))

A Bill for an Act to amend the Acts Interpretation Act 1931, the Bail Act 1994, the Classification (Publications, Films and Computer Games) Enforcement Act 1995, the Coroners Act 1995, the Court Security Act 2017, the Criminal Code Act 1924, the Criminal Law (Detention and Interrogation) Act 1995, the Criminal Procedure (Attendance of Witnesses) Act 1996, the Evidence Act 2001, the Forensic Procedures Act 2000, the Guardianship and Administration Act 1995, the Long Service Leave Act 1976, the Oaths Act 2001, the Registration to Work with Vulnerable People Act 2013, the Sentencing Act 1997, the Sentencing Amendment (Phasing Out of Suspended Sentences) Act 2017, the Trustee Companies Act 1953 and the Water Management Act 1999 and to repeal the Long Service Leave (Casual Wharf Employees) Act 1982 (Bill No, 35 (Act No. 29 of 2018 Justice and Related Legislation (Miscellaneous Amendments) Act 2018))

A Bill for an Act to amend the Criminal Code Act 1924, Evidence (Children and Special Witnesses) Act 2001 and the Family Violence Act 2004 (Bill No, 39 (Act No. 26 of 2018 Family Violence Reforms Act 2018)

A Bill for an Act to amend the Local Government Act 1993 (Bill No, 49 (Act No. 34 of 2018 Local Government Amendment (Miscellaneous) Act 2018))

A Bill for an Act to amend the Roads and Jetties Act 1935 and the Local Government (Highways) Act 1982 (Bill No. 54 (Act No. 33 of 2018 Roads and Jetties Amendment (Management of State Highways in Cities) Act 2018))

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

Government House, Hobart, 10 December 2018

ROYAL ASSENT TO BILLS.—

MESSAGE

Kate Warner, Governor

A Bill for an Act to amend the *Building Act 2016*, the *Occupational Licensing Act 2005*, the *Building Regulations 2016*, the *Occupational Licensing (Building Services Work) Regulations 2016*, the *Residential Building Work Contracts and Dispute Resolution Regulations 2016*, and the *Urban Drainage (General) Regulations 2016* (Bill. No 27 (Act No. 39 of 2018 Building Legislation (Miscellaneous Amendments) Act 2018))

A Bill for an Act to amend the *Residential Tenancy Act 1997* and the *Family Violence Act 2004* (Bill No. 32 (Act No. 38 of 2018 Residential Tenancy Amendment Act 2018))

A Bill for an Act to establish Brand Tasmania and for related purposes (Bill No. 46 (Act No. 37 of 2018 Brand Tasmania Act 2018))

A Bill for an Act to amend the Land Use Planning and Approvals Act 1993 and the Tasmanian Planning Commission Act 1997 (Bill No. 48 (Act No. 36 of 2018 Land Use Planning and Approvals Amendment (Tasmanian Planning Policies and Miscellaneous Amendments) Act 2018))

A Bill for an Act to amend the *Macquarie Point Development Corporation Act 2012* (Bill No. 50 (Act No. 35 of 2018 Macquarie Point Development Corporation Amendment Act 2018)

A Bill for an Act to amend the *Burial and Cremation Act* 2002 (Bill No. 56 (Act No. 40 of 2018 Burial and Cremation Amendment Act 2018))

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

Government House, Hobart, 17 December 2018

PARLIAMENT OF TASMANIA A PROCLAMATION

WHEREAS it is expedient that the Parliament of Tasmania be prorogued, I Professor the Honourable Kate Warner, Companion of the Order of Australia, Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, exercising the power and authority vested in me by the Constitution Act 1934, hereby prorogue the Parliament effective from 6.00pm this day.

And I hereby fix 11.00am on Tuesday 19 March 2019 in the Houses of Parliament situated in the City of Hobart in Tasmania as the time and place for the next Session of Parliament.

GIVEN under my hand at Hobart in Tasmania on 26 February 2019.

C. Warner, Governor

By Her Excellency's Command, William E.F. Hodgman, Premier