



LEGISLATIVE COUNCIL

SESSION OF 2019 - 2020

(SECOND SESSION OF THE FORTY-NINTH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 68

THURSDAY, 17 SEPTEMBER 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 PAPERS.**— The Clerk of the Council laid upon the Table the following Papers:—
 - (1) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising area of land containing 10ha situate in New Brighton High School, Municipality of Brighton.
 - (2) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising area of land containing 110m² situate in Bass Highway – Boat Harbour Primary School Turning Facilities, Municipal area of Waratah-Wynyard.
 - (3) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising area of land containing 1252m² situate in Bass Highway – Boat Harbour Primary School Turning Facilities, Municipal area of Waratah-Wynyard.
 - (4) Land Acquisition Act 1993: Notice of Acquisition of land under Section 18, comprising areas of land containing 288m² and 1065m² situate in Bass Highway - Boat Harbour Primary School Turning Facilities, Municipal area of Waratah-Wynyard.
- 5 BILL NO. 39 OF 2019.** — The Justice Legislation Miscellaneous Amendments Bill 2019 was read the Third time and passed.
- 6 BILL NO. 39 OF 2019.**— 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 *Sentencing Act 1997*, the *Criminal Law (Detention and Interrogation) Act 1995* and the *Criminal Code*’.

Legislative Council, 17 September 2020 C.M. FARRELL, *President*
- 7 BILL NO. 44 OF 2019.** — The Police Legislation Miscellaneous Amendments Bill 2019 was read the Third time and passed.

8 BILL NO. 44 OF 2019.— 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 *Community Protection (Offender Reporting) Act 2005*, the *Police Offences Act 1935*, the *Police Powers (Vehicle Interception) Act 2000* and the *Road Safety (Alcohol and Drugs) Act 1970*'.

Legislative Council, 17 September 2020

C.M. FARRELL, *President*

9 BILL NO. 26.— The Order of the Day was read for resuming the Debate on the Question, That the Land Use Planning and Approvals Amendment (Major Projects) Bill 2020 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 *Forrest* in the Chair.

Clauses 1 to 11 agreed to.

Clause 12 read.

Subclause 60B postponed.

Subclause 60C, Amendment proposed (Ms *Lovell*)

Page 24, proposed new section 60C, after subsection (3).

Insert the following subsections:

(3A) A proposal may not, under this section, be made to the Minister, or by the Minister, in relation to a major project, if –

- (a) the proponent of the project, or a person acting on behalf of, or at the request or direction of, the proponent; or
- (b) a member of the governing body of the proponent of the project, or a person acting on behalf of, or at the request or direction of, a person who is a member of the governing body of the proponent –

has, within the 3-year period immediately before the proposal is made under this section, given a benefit to –

- (c) a person who is a member of the Parliament; or
- (d) a person who is, or is intending to be, a candidate for election to the Parliament; or
- (e) a political party that is registered in the State; or
- (f) a person, where the benefit is given to the person for the purpose of enabling the person to –
 - (i) give, directly or indirectly, a benefit to a person referred to in paragraph (c), (d) or (e); or
 - (ii) reimburse the person for giving a benefit to a person referred to in paragraph (c), (d) or (e).

(3B) A proposal may not be made to the Minister under subsection (1), or by the Minister under subsection (2), unless it is accompanied by a statutory declaration, from each of the relevant persons, declaring that he or she does not believe, and has no reason to believe, that, within the 3-year period immediately before the proposal is made under this section, a benefit has been given to –

- (a) a person who is a member of the Parliament; or
- (b) a person who is, or is intending to be, a candidate for election to the Parliament; or
- (c) a political party that is registered in the State; or
- (d) a person, where the benefit is given to the person for the purpose of enabling the person to –
 - (i) give, directly or indirectly, a benefit to a person referred to in paragraph (a), (b) or (c); or
 - (ii) reimburse the person for giving a benefit to a person referred to in paragraph (a), (b) or (c) –

by –

- (e) the proponent of the project, or a person acting on behalf of, or at the request or direction of, the proponent; or
- (f) a member of the governing body of the proponent of the project, or a person acting on behalf of, or at the request or direction of, a person who is a member of the governing body of the proponent.

(3C) If the Minister intends to make a proposal in relation to a major project –

- (a) the Minister may give to a proponent in relation to the project a notice requiring the proponent to ensure there is provided to the Minister, within the period specified in the notice –
 - (i) a statutory declaration in accordance with subsection (3B); or
 - (ii) a statutory declaration, by the relevant persons, stating that the proposal cannot be made because of the application of subsection (3A) to the project; and
- (b) if the proponent in relation to the project fails to comply with a notice under subsection (a), within the period specified in the notice, section 60E(4) applies in relation to the project as if the failure to comply were a failure to comply with section 60E(3).

(3D) In this section, a reference to a benefit given to a person or a political party is a reference to –

- (a) a donation of an amount of money, to the person or political party, for the purposes of promoting the election of the person or a member of a political party; or
- (b) a gift to the person or political party, including a disposition of property made (other than under a will), without consideration –
 - (i) in money or money's worth; and
 - (ii) that approximates the reasonable value of the object given as a gift; or
- (c) the provision to the person, or to a person who is a member of the political party, of services (other than services that might ordinarily be given on a voluntary basis to a political party, or a candidate for

parliament, to promote the political advancement of the party or person) other than for consideration –

- (i) in money or money's worth; and
- (ii) that approximates the reasonable value of the object given as a gift –

but does not include a gift that is made to a person in a private capacity for the person's personal use and that has not been used, or is not intended by the person to be used, wholly or substantially, for a purpose related to an election or the person's duties as a member of Parliament.

(3E) In this section, a reference to the relevant persons in relation to a proponent is a reference to –

- (a) the person who is the chief executive officer of the proponent; and
- (b) the person who is the chair of the governing body of the proponent.

Question put, That the Amendment be agreed to.

Committee divided.

AYES 5

Ms Lovell (Teller)
Dr Seidel
Ms Siejka
Mr Valentine
Mr Willie

NOES 9

Ms Armitage
Mr Dean
Ms Forrest
Mr Gaffney
Mrs Hiscutt
Ms Howlett (Teller)
Ms Palmer
Ms Rattray
Ms Webb

So it passed in the Negative.

Subclauses 60C to 60G agreed to.

Ms Rattray in Chair.

Subclause 60H, Amendments made (*Ms Forrest*)

First amendment

Page 39, proposed new section 60H, subsection (1).

Leave out "State Service Agency" (wherever occurring).

Insert instead "relevant State entity".

Second amendment

Page 40, proposed new section 60H, subsection (3).

Leave out "Secretary of a State Service Agency".

Insert instead "Secretary, or chief executive officer, of a relevant State entity".

Subclause as Amended agreed to.

Subclause 60I Amendments made (*Ms Forrest*)

First amendment

Page 42, proposed new section 60I, subsection (1), paragraph (f).

Leave out “State Service Agency”.

Insert instead “relevant State entity”.

Second amendment

Page 43, proposed new section 60I, subsection (2), paragraph (d).

Leave out “State Service Agency”.

Insert instead “relevant State entity”.

Third amendment

Page 43, proposed new section 60I, subsection (3).

Leave out “State Service Agency” (first occurring).

Insert instead “relevant State entity”.

Fourth amendment

Page 43, proposed new section 60I, subsection (3), paragraph (a).

Leave out “State Service Agency”.

Insert instead “relevant State entity”.

Fifth amendment

Page 43, proposed new section 60I, subsection (3), paragraph (b).

Leave out “State Service Agency”.

Insert instead “relevant State entity”.

Ms *Forrest* in Chair.

Subclause as Amended agreed to.

Subclauses 60J to 60L agreed to

Subclause 60M read.

10 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.

11 QUESTION TIME.— The President called for Questions without Notice. There were six Questions asked.

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

13 CONDOLENCE MOTION: ANTHONY WILLIAM FLETCHER.— *Resolved*, *Nemine Contradicente*,

That this Council expresses its profound regret at the death on 27 August 2020 of Anthony William Fletcher, who served in the Legislative Council as a Member from 1981 in the electorate which was known as Russell and from 1999 – 2005 in the electorate of Murchison, and served as Leader for the Government in the Legislative Council from 1986 to 1989 and again from 1996 to 1998, and places on record its sincere appreciation of his great service to this State, and further, that the Council humbly and respectfully tenders to his family its deepest sympathy in their bereavement.

Ordered, That the Resolution of the Council be forwarded to the family of the late Anthony William Fletcher. (Ms *Forrest*)

14 BILL NO. 26.— The Council, again resolved itself into a Committee on the Land Use Planning and Approvals Amendment (Major Projects) Bill 2020.

(In the Committee)

Ms *Forrest* in the Chair.

Clause 12 as amended further considered.

Subclause 60M, Amendment proposed (Ms Webb)

Page 49, proposed new section 60M, subsection (2), proposed paragraph (b).

Leave out the proposed paragraph.

Question put, That the Amendment be agreed to.

It passed in the negative.

Subclause 60M as read agreed to.

Subclause 60N, Amendment proposed (Ms Webb)

Page 51, proposed new section 60N, after proposed subsection (2).

Insert the following subsections:

(3) If a project consists, wholly or partly, of a use or development, in relation to land, that is substantially the same as a use or development –

(a) in relation to which a person or body has granted, or refused to grant, in relation to the land, a permit or project-related permit; or

(b) in relation to which an order, in relation to the land –

(i) has been made under section 18 of the *State Policies and Projects Act 1993*; and

(ii) has been approved by each House of Parliament before the end of the period of 15 sitting-days after the day on which the order was laid before the House; or

(c) in relation to which an order, in relation to the land –

(i) has been made under section 18 of the *State Policies and Projects Act 1993*; but

(ii) has not been approved by each House of Parliament before the end of the period of 15 sitting-days after the day on which the order was laid before the House –

then, despite section 60M, the project is not eligible to be declared to be a major project under section 60O within the 2-year period after the day of the grant or refusal or the day after the expiry of the period of 15 sitting-days, as the case may be.

(4) If a Tribunal or Court affirms a decision to refuse to grant a permit or project-related permit in relation to a proposed use or development on land that is substantially the same as a proposed use or development, in relation to the land, to which a project relates, a reference in subsection (3) to the day of the refusal is to be taken to be a reference to the day on which the Tribunal or Court affirms the decision to refuse.

(5) Despite section 60M, a project is not eligible to be declared to be a major project under section 60O if –

- (a) the project consists in whole or in part of a use or development, in relation to land, that is substantially similar to a use or development, in relation to all or part of the land, to which relates a decision to refuse to grant a permit or project-related permit; and
- (b) there are legal proceedings before a Tribunal or Court in relation to that decision.

Question put, That the Amendment be agreed to.

It passed in the negative.

Subclause 60N as read agreed to.

Subclause 60O Amendment proposed (*Ms Webb*)

Page 51, proposed new section 60O, after proposed subsection (1).

Insert the following subsection:

- (1A) The Minister may not make a declaration under subsection (1) unless there are determination guidelines that are in force.

Question put, That the Amendment be agreed to.

It passed in the negative.

Subclause 60O as read agreed to.

Subclause 60P Amendment proposed (*Mr Valentine*)

Page 53, proposed new section 60P, subsection (1), after paragraph (b).

Insert the following paragraph:

- (c) the Minister is satisfied that declaring the project to be a major project is consistent with the determination guidelines.

Question put, That the Amendment be agreed to.

It passed in the negative.

Subclause 60P as read further considered.

Further Amendment proposed (*Mr Valentine*)

Page 54, proposed new section 60P, subsection (2), paragraph (b).

Leave out “the general manager in relation to”.

Question put, That the Amendment be agreed to.

Committee divided.

AYES 9

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

NOES 4

Mr Dean
Mrs Hiscutt
Ms Howlett
Ms Palmer (Teller)

It was resolved in the Affirmative.

Subclause 60P as amended agreed to.

Subclause 60Q, Amendment proposed (Ms *Webb*)

Page 56, proposed new section 60Q, subsection (3).

Leave out the subsection.

Question put, That the Amendment be agreed to.

Committee divided.

AYES 5

Ms *Armitage*
Mr *Gaffney* (Teller)
Ms *Rattray*
Mr *Valentine*
Ms *Webb*

NOES 8

Mr *Dean*
Mrs *Hiscutt*
Ms *Howlett*
Ms *Lovell*
Ms *Palmer*
Dr *Seidel*
Ms *Siejka*
Mr *Willie* (Teller)

So it passed in the Negative.

Subclause 60Q as read agreed to.

To report progress and seek leave to sit again.

The Council being resumed Ms *Forrest* reported that the Committee had made progress in the Bill, and that she was directed to move that the Committee may have leave to sit again.

Resolved, That the Council will, at a later hour, again resolve itself into the said Committee.

15 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 6.09 o'clock p.m. and resumed at 7.05 o'clock p.m.

16 BILL NO. 26.—The Council, according to Order, again resolved itself into a Committee on the Land Use Planning and Approvals Amendment (Major Projects) Bill 2020.

(In the Committee)

Ms *Forrest* in the Chair.

Clauses 12 further considered

Subclauses 60R to 60V agreed to.

Subclause 60W, Amendments proposed (Ms *Lovell*)

First amendment

Page 69, proposed new section 60W, subsection (1), paragraph (a).

Leave out “or another person”.

Second amendment

Page 69, proposed new section 60W, subsection (1), paragraph (b).

Leave out “or another person,”.

Question put, That the Amendments be agreed to.

It passed in the Negative.

Subclause 60W as read further considered.

Further Amendment proposed (*Ms Webb*)

Page 70, proposed new section 60W, proposed subsection (3), paragraph (a).

Leave out “, urban and regional development, commerce or industry”.

Insert instead “or urban and regional development”.

Question put, That the Amendment be agreed to.

It passed in the Negative.

Subclause 60W as read further considered.

Further Amendment proposed (*Ms Webb*)

Page 70, proposed new section 60W, subsection (3), after paragraph (b).

Insert the following paragraph:

- (c) qualifications or experience in environmental science, environmental management, ecology, environmental and public health, Aboriginal cultural heritage or historic heritage.

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

Committee divided.

AYES 4

Ms Armitage
Mr Gaffney
Mr Valentine
Ms Webb (Teller)

NOES 9

Mr Dean
Mrs Hiscutt
Ms Howlett
Ms Lovell (Teller)
Ms Palmer
Ms Rattray
Dr Seidel
Ms Siejka
Mr Willie

So it passed in the Negative.

Subclause 60W as read agreed to.

Ms Rattray in Chair

Subclause 60X, Amendment Made (*Ms Forrest*)

Page 73, proposed new section 60X, subsection (2).

Leave out the subsection.

Ms Forrest in the Chair.

Subclause 60X as Amended further considered.

Amendment proposed. (*Ms Webb*)

Page 73, proposed new section 60X, after subsection (3).

Insert the following subsection:

(3A) The procedures approved by the Commission under subsection (3) must be consistent with Part 3 of the *Tasmanian Planning Commission Act 1997*.

Question put, That the Amendment be agreed to.

It passed in the Negative.

Subclause 60X as amended agreed to.

Subclauses 60Y to 60ZZ agreed to.

Subclause 60ZZA Amendment proposed. (Ms *Webb*)

Page 129, proposed new section 60ZZA.

Leave out the proposed new section.

Question put, That the Amendment be agreed to.

Committee divided.

AYES 4

Mr *Gaffney* (Teller)
Ms *Rattray*
Mr *Valentine*
Ms *Webb*

NOES 9

Ms *Armitage*
Mr *Dean* (Teller)
Mrs *Hiscutt*
Ms *Howlett*
Ms *Lovell*
Ms *Palmer*
Dr *Seidel*
Ms *Siejka*
Mr *Willie*

So it passed in the Negative.

Subclause 60ZZA as read agreed to.

Subclauses 60ZZB to 60ZZL agreed to.

Subclause 60ZZM, Amendment proposed. (Ms *Webb*)

Page 155, proposed new section 60ZZM, subsection (4), paragraph (c).

Leave out “not be in contravention of a State Policy”.

Insert instead “be consistent with each State Policy”.

Question put, That the Amendment be agreed to.

It passed in the Negative.

Subclause 60ZZM as read further considered.

Further Amendment proposed. (Ms *Webb*)

Page 155, proposed new section 60ZZM, subsection (4), paragraph (d).

Leave out “not be in contravention of”.

Insert instead “be consistent with”.

Question put, That the Amendment be agreed to.

It passed in the Negative.

Sub Clause 60ZZM as read further considered.

Further Amendment proposed. (Ms Webb)

Page 155, proposed new section 60ZZM, subsection (4), paragraph (e).

Leave out “not be inconsistent with”.

Insert instead “be consistent with”.

Question put, That the Amendment be agreed to.

It passed in the Negative.

Sub Clause 60ZZM as read further considered.

Further Amendment proposed. (Ms Webb)

Page 155, proposed new section 60ZZM, subsection (4), after paragraph (e).

Insert the following paragraphs:

- | | |
|------|---|
| (ea) | the project avoids the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area; and |
| (eb) | the project is in the public interest; and |

Question put, That the Amendment be agreed to.

It passed in the Negative.

To report progress and seek leave to sit again.

The Council being resumed, Ms *Forrest* reported that the Committee had made progress in the Bill, and that she was directed to move that the Committee may have leave to sit again.

Resolved, That the Council will, tomorrow, again resolve itself into the said Committee.

17 BILL NO. 50 of 2019.— 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 *Teachers Registration Act 2000*’,

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

House of Assembly, 17 September 2020

J.A. PETRUSMA, Deputy 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*)

18 BILL NO. 48 of 2019.— 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 *Mines Work Health and Safety (Supplementary Requirements) Act 2012*’,

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

House of Assembly, 17 September 2020

J.A. PETRUSMA, Deputy 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*)

19 BILL NO. 7.— 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 Rail Safety National Law (Tasmania) Act 2012*’,

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

House of Assembly, 17 September 2020

J.A. PETRUSMA, Deputy *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*)

20 BILL NO. 53 OF 2019.— 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 Property Agents and Land Transactions Act 2016*’,

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

House of Assembly, 17 September 2020

J.A. PETRUSMA, Deputy *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*)

21 SUBORDINATE LEGISLATION COMMITTEE: FILLING OF VACANCY.— A Message from the House of Assembly:—

MR PRESIDENT,

In accordance with the provisions of section 4 of the *Subordinate Legislation Committee Act 1969* (No 44), the House of Assembly has appointed the Honourable Member for Braddon Mr Ellis to service on the Parliamentary Standing Committee on Subordinate Legislation.

House of Assembly, 17 September 2020

S. HICKEY, *Speaker*

22 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 Tuesday, 22 September 2020.

It was resolved in the Affirmative.

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

The Council adjourned at 9.59 o'clock p.m.

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

Briefings:

- *Public Health Amendment (Prevention of Sale of Smoking Products to Under-Age Persons) Bill 2018.*
- *Police Offences Amendment (Repeal of Begging) Bill 2019.*