



LEGISLATIVE COUNCIL

MINUTES OF THE PROCEEDINGS

No. 73 — Wednesday, 14 October 2020

Proof Version

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- 1 The President took the Chair at 9.35 a.m., read the Prayer and made an Acknowledgement of Country.
 - 2 **PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE MEMBERSHIP** — The President read a letter from Ms Stitt resigning from the Public Accounts and Estimates Committee, effective from 13 October 2020.
 - 3 **JOINT COMMITTEE MEMBERSHIP** — Ms Symes moved, by leave, That —
 - (1) Ms Taylor be a member of the Public Accounts and Estimates Committee;
 - (2) Ms Terpstra be a member of the Scrutiny of Acts and Regulations Committee; and
 - (3) Ms Tierney be a member of the Dispute Resolution Committee.

Mr Davis moved, as an amendment, That in paragraph (1) the words “Ms Taylor” be **omitted** with a view of **inserting** in their place “Mr Grimley”.

Debate ensued.

Question — That the amendment moved by Mr Davis be agreed to — put.

The Council divided — The President in the Chair.

AYES, 16

Dr Bach; Mr Barton; Ms Bath; Mr Bourman; Ms Crozier; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O’Donohue; Mr Ondarchie; Mr Rich-Phillips.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 18

Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Ms Shing; Ms Stitt; Ms Symes; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question negatived.

Original question — put.

The Council divided — The President in the Chair.

AYES, 20

Mr Bourman; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Mr Hayes; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Ms Shing; Ms Stitt; Ms Symes; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 14

Dr Bach; Mr Barton; Ms Bath; Ms Crozier; Mr Davis; Mr Finn; Mr Grimley; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O’Donohue; Mr Ondarchie; Mr Rich-Phillips.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question agreed to.

- 4 PETITION — TRAFFIC NOISE ON THE GEELONG RING ROAD, FYANSFORD —**
Mrs McArthur presented a Petition bearing 59 signatures from certain citizens of Victoria requesting that the Legislative Council call on the Government to release all Acoustic Reports completed for The Heights estate in Fyansford, conduct a new Acoustic Report as a matter of priority and provide all landowners at The Heights estate a copy of the Report, and urgently assess the required noise walls and relevant infrastructure on the Geelong Ring Road above The Heights estate and conduct an inquiry into regulated noise levels along the entire Geelong Ring Road bypass.

Ordered to lie on the Table.

- 5 PAPERS PURSUANT TO STATUTE —** The following Papers, pursuant to the directions of several Acts of Parliament, were laid on the Table by the Clerk:

Auditor-General's Office — Report, 2019-20.

Auditor-General's Reports on —

Follow up of Managing the Level Crossing Removal Program, October 2020 (*Ordered to be published*).

Reducing Bushfire Risks, October 2020 (*Ordered to be published*).

Essential Services Commission Act 2001 — Port of Melbourne – Market Rent Inquiry 2020, Public Report.

Public Health and Wellbeing Act 2008 — Report to Parliament on the Extensions of the Declaration of a State of Emergency, pursuant to section 198(8A) of the Act.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 95.

- 6 MEMBERS' STATEMENTS —** Statements were made by Members pursuant to Standing Order 5.13 and further statements were received from Members for incorporation in Hansard pursuant to an Order of the Council of 15 September 2020.

- 7 COVID-19 PUBLIC HEALTH ORDERS AND DIRECTIONS — SCRUTINY OF ACTS AND REGULATIONS COMMITTEE REFERENCE AND PRODUCTION OF DOCUMENTS —**

Mr Davis moved, That this House —

- (1) notes that orders and directions pursuant to the *Public Health and Wellbeing Act 2008* have been published in the Government Gazette during the COVID-19 pandemic;
- (2) notes that these orders and directions are legislative instruments under the *Subordinate Legislation Act 1994*;
- (3) further notes these instruments impact the freedoms, rights and liberties of Victorians and should be openly and transparently assessed to ensure proportionality and legitimate restrictions on the rights and freedoms of Victorians are minimised;
- (4) requires the Leader of the Government to lodge with the Clerk every public health order or direction related to COVID-19 published in the Government Gazette pursuant to the *Public Health and Wellbeing Act 2008* currently in force within 48 hours of the House agreeing to this resolution and requires these and all future orders and directions related to COVID-19 made under the *Public Health and Wellbeing Act 2008* published in the Government Gazette to be tabled by the Clerk, and if —
 - (a) the House is sitting, the Clerk will cause such documents to be laid on the Table at the earliest opportunity;
 - (b) the House is not sitting, as soon as practicable after such documents are received or have been published in the Government Gazette, the Clerk will notify each member of the House of the publication of the documents in the Tabled Documents Database, and cause such documents to be laid on the Table on the next sitting day of the Council;
- (5) requires the Clerk to ensure that the Minutes of the Proceedings and the Tabled Documents Database reflect the tabling of each order and direction;
- (6) requires the Clerk to transmit a copy of each order and direction when it is published in the Tabled Documents Database to the Scrutiny of Acts and Regulations Committee (SARC);

- (7) pursuant to section 33(1)(a) of the *Parliamentary Committees Act 2003*, requires the SARC to inquire into and examine —
- (a) the appropriateness and proportionality of distance restrictions introduced in recent orders and directions made under the *Public Health and Wellbeing Act 2008*, commonly known as the five-kilometre radius rule and rules mandating masks and the circumstances in which these are proportionate and reasonably necessary to achieve public health objectives and minimise legitimate restrictions on the rights and freedoms of Victorians and report on this within three weeks;
 - (b) every public health order or direction made under the *Public Health and Wellbeing Act 2008* transmitted to the Committee by the Clerk to —
 - (i) assess and report on the impact of these legislative instruments on the rights and liberties of Victorians and regarding any matters with respect to the *Charter of Human Rights and Responsibilities Act 2006* and the *Subordinate Legislation Act 1994*;
 - (ii) as a default, seek public submissions and undertake hearings;
 - (iii) other than in exceptional circumstances, report within two weeks of an order or direction being transmitted to the Committee by the Clerk, including recommendations as to whether or not the legislative instrument should be disallowed in whole or in part;
- (8) requires, pursuant to Standing Order 11.01, within 48 hours of each public health order or direction being tabled in the House by the Clerk, the Leader of the Government to table in the House the briefings supporting the order or direction made by the Chief Health Officer or their delegate and the briefing provided to the Minister for Health justifying the order or direction pursuant to the objectives of the *Public Health and Wellbeing Act 2008*.

Debate ensued.

The Acting President advised that the total time allocated for debate, pursuant to Sessional Order 8, had elapsed —

Question — put.

The Council divided — The President in the Chair.

AYES, 16

Dr Bach; Ms Bath; Ms Crozier; Dr Cumming; Mr Davis; Mr Finn; Mr Grimley; Mr Hayes; Mr Limbrick; Ms Lovell; Ms Maxwell; Mrs McArthur; Mr O'Donohue; Mr Ondarchie; Mr Quilty; Mr Rich-Phillips.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

NOES, 20

Mr Barton; Mr Elasmarr; Mr Erdogan; Ms Garrett; Mr Gepp; Dr Kieu; Mr Leane; Mr Meddick; Mr Melhem; Ms Patten; Ms Pulford; Dr Ratnam; Ms Shing; Ms Stitt; Ms Symes; Ms Taylor; Ms Terpstra; Ms Tierney; Ms Vaghela; Ms Watt.

(Recorded by Clerks-at-the-Table, pursuant to an Order of the Council of 23 April 2020)

Question negatived.

Business having been interrupted at 12.00 noon pursuant to Sessional Orders —

- 8 QUESTIONS AND MINISTERS' STATEMENTS** — Questions without notice were taken and Ministers' Statements were made pursuant to Sessional Order 13.

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QUESTIONS DIRECTED FOR WRITTEN RESPONSE — The President directed written responses be provided to questions without notice pursuant to Standing Order 8.07 as follows:

- **Workplace safety – hotel quarantine** — substantive question asked by Mr O'Donohue — response from Ms Stitt due Thursday, 15 October 2020.
- **COVID-19 serological characteristics** — substantive and supplementary questions asked by Mr Quilty — response from Ms Symes due Friday, 16 October 2020.
- **The Orange Door family violence services** — substantive and supplementary questions asked by Mr Grimley — response from Ms Stitt due Friday, 16 October 2020.

- **Stamp duty and absentee owner surcharges** — substantive and supplementary questions asked by Mr Hayes — response from Ms Symes due Friday, 16 October 2020.

9 CONSTITUENCY QUESTIONS — Constituency questions were taken pursuant to Standing Order 8.08 and further questions were received from Members for incorporation in Hansard pursuant to an Order of the Council of 15 September 2020.

10 COVID-19 OMNIBUS (EMERGENCY MEASURES) AND OTHER ACTS AMENDMENT BILL 2020 — The President read a Message from the Assembly informing the Council that they had agreed to the amendments made by the Council in this Bill.

11 ROAD SAFETY AMENDMENT (MEDICINAL CANNABIS) BILL 2019 — Debate resumed on the question, That the Bill be now read a second time.

On the motion of Ms Taylor, the debate was adjourned until the next day of meeting.

12 BUSINESS POSTPONED — Ordered — That the consideration of Order of the Day, General Business, No. 2, be postponed until the next day of meeting.

13 ENVIRONMENT PROTECTION (MANAGEMENT OF TUNNEL BORING MACHINE SPOIL) REGULATIONS 2020 — DISALLOWANCE — Mr Davis moved, That this House, pursuant to section 71(4) of the *Environment Protection Act 1970* and section 23 of the *Subordinate Legislation Act 1994*, disallows, in full, the Environment Protection (Management of Tunnel Boring Machine Spoil) Regulations 2020 which were gazetted on 30 June 2020 and tabled in this House on 4 August 2020.

Debate ensued.

Business having been interrupted at 5.15 p.m. pursuant to Sessional Orders, the debate stood adjourned in the name of Mr Meddick.

14 STATEMENTS ON REPORTS, PAPERS AND PETITIONS — Statements on reports, papers and petitions were made by Members pursuant to Sessional Order 16.

15 ADJOURNMENT — Ms Symes moved, That the House do now adjourn.

Debate ensued and responses to certain Adjournment matters were circulated pursuant to Standing Order 4.13.

And then the Council, at 6.17 p.m., adjourned until tomorrow.

ANDREW YOUNG
Clerk of the Legislative Council