



Speech By  
**Hon. Stirling Hinchliffe**


**MEMBER FOR SANDGATE**

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Record of Proceedings, 21 August 2018

## **LOCAL GOVERNMENT (DISSOLUTION OF IPSWICH CITY COUNCIL) BILL**

### **Message from Deputy Governor**

 **Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (11.17 am): I present a message from the Deputy Governor.

**Mr SPEAKER:** The message from the Deputy Governor recommends the Local Government (Dissolution of Ipswich City Council) Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

LOCAL GOVERNMENT (DISSOLUTION OF IPSWICH CITY COUNCIL) BILL 2018

*Constitution of Queensland 2001, section 68*

I, WALTER SOFRONOFF, Deputy Governor, recommend to the Legislative Assembly a Bill intitled—

A Bill for an Act to dissolve the Ipswich City Council and provide for the appointment of an interim administrator to act in place of the councillors of the Ipswich City Council and for related purposes


(sgd)

DEPUTY GOVERNOR

Date: 21 August 2018

*Tabled paper:* Message, dated 21 August 2018, from the Deputy Governor recommending the Local Government (Dissolution of Ipswich City Council) Bill 2018 [[1120](#)].

### **Introduction**

 **Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (11.18 am): I present a bill for an act to dissolve the Ipswich City Council and provide for the appointment of an interim administrator to act in place of the councillors of the Ipswich City Council and for related purposes. I table the bill and the explanatory notes.

*Tabled paper:* Local Government (Dissolution of Ipswich City Council) Bill 2018 [[1118](#)].

*Tabled paper:* Local Government (Dissolution of Ipswich City Council) Bill 2018, explanatory notes [[1119](#)].

It is the constitutional responsibility of this parliament to ‘make laws for the peace, welfare and good government’ of this state, and that is what we are here to do today. It is our collective responsibility to restore good government—good local government—to the community of Ipswich. In doing that, we will have delivered certainty.

Certainty is what has been absent over the past 14 months as Ipswich city councillors, council employees and contractors have been charged one after the other with a variety of misconduct and corruption charges. Approximately 15 people, including seven current or former councillors or council employees, are facing almost 90 charges. In my capacity as Minister for Local Government, I have been assailed by phone calls, emails, letters, documents and reports of investigations into various aspects of the operation of the Ipswich City Council.

The Ipswich City Council has faced investigation by the CCC, by the Queensland Audit Office and by my department. There have been many findings, some of them deeply disturbing. These reports and other missives and exchanges are redolent with words such as 'fraud', 'keep your head down', 'do not talk to them', 'watch out', 'corrupt', 'stress', 'mental health', 'theft', 'crime', 'entrenched corruption', 'secrets', the 'in-crowd' and 'look the other way'.

When documents came into my possession recently via an investigation by the director-general of the Department of Local Government, Racing and Multicultural Affairs, I became gravely concerned at not only the operations of the Ipswich City Council but also the operation of council's controlled entities. I tabled documents in this House that revealed unbridled expenditure of the ratepayer dollar for very little return. These documents, authored by advisory firm McGrathNicol, indicated a disturbing lack of probity and a lack of respect for the trust with which ratepayers had endowed their elected representatives. It is this trust that allows those same elected representatives to make decisions in their ratepayers' interests, to spend their money in a way that will, ideally, benefit their community.

As local government minister, I am responsible for the framework within which councils operate. As local government minister, I am a major 'check' or 'balance', if you like, on any bad behaviour of those working within the system. However, under our constitutional arrangements, it is the parliament itself that has the ultimate responsibility. Where there are problems, it is our job to step in—to have regard for the ratepayer, for the broader community and, as I see it, for the health and welfare of the staff of councils. There are no circumstances in which I could stand by, knowing what I know, hearing what I hear, reading the allegations that I do, and do nothing. Like other local government ministers before me, I have powers under the Local Government Act to remove or suspend councils, mayors or councillors. I have accessed those powers. I did so because that is how the system works. I did so because I had formed the view that those in charge—the councillors of the Ipswich City Council—were either unable or unwilling to provide the certainty so needed by the people of Ipswich—certainty that should be theirs by right.

I want to talk a little bit about rights. After having received not one but two show-cause notices from me, Ipswich city councillors chose to pursue the matter of their dismissal in the Supreme Court. While I know that is their right, it was not in the best interests of the people of Ipswich. Councillors' moves to legally challenge my show-cause notice showed a clear determination to defend this matter until the very end, through all of the avenues for appeal, until they were exhausted. We were on a course that provided anything but certainty as a consequence. That is why this parliament must now fulfil its constitutional duty and vote for this bill to dissolve the Ipswich City Council. Putting this bill before the House today has not been an easy decision. However, there is no doubt in my mind that these are extraordinary circumstances and these extraordinary circumstances warrant what is unquestionably an extraordinary step. In taking this step, we will correct the failures of governance; we will ensure proper practices and procedures are put in place.

The CCC report *Culture and corruption risks in local government: lessons from an investigation into Ipswich City Council (Operation Windage)* was tabled in the Legislative Assembly on 14 August 2018. Suspected official corruption, improper use of power and influence for personal benefit and a lack of accountability for public resources were just some of its findings. I am convinced that these significant failures would not have occurred in an environment in which the values of transparency, accountability and good governance were paramount, but they were not. Therefore, the policy objectives of the bill are to resolve these concerns promptly and to provide the Ipswich community with certainty—certainty that will come from the appointment of an interim administrator to act in the place of the councillors until the conclusion of the quadrennial election for the Ipswich local government area to be held in 2020. Accordingly, the bill expires on 30 June 2020.

On 17 July 2018, in accordance with section 92(1)(d) of the Parliament of Queensland Act 2001, the Economics and Governance Committee resolved to conduct an inquiry into a draft version of the bill that I have introduced to the House. Given the government's intention to seek passage of the bill this week, it is important that the parliament was able to make an informed decision about passage, or otherwise, of the bill. The committee's report, tabled on 17 August 2018, will assist the House in this regard. Shortly I will table the government's response. I express my thanks to the committee for its

timely and thorough consideration of the draft bill. I want to thank in particular all of the members of the committee. Because of the timing of the reference to them, it took time away from other committee activities that they may have had planned.

On 30 July 2018, the committee held public hearings in both Ipswich and Brisbane. The Ipswich public hearing was attended by Acting Mayor Wayne Wendt and seven councillors. The Brisbane public hearing was attended by representatives of the Local Government Association of Queensland, the Queensland Local Government Reform Alliance, the Queensland Law Society, the Crime and Corruption Commission and two individual submitters. I thank all stakeholders who made submissions and appeared as witnesses as part of the committee's inquiry. In reference to the committee's report, I table the government's response.

*Tabled paper:* Economics and Governance Committee: Report No. 12, 56th Parliament—Inquiry into the Draft Local Government (Dissolution of Ipswich City Council) Bill 2018, government response [\[1149\]](#).

The committee made three recommendations. The committee's recommendation 1, on the basis that the draft bill was to be introduced, is that the Legislative Assembly pass the bill. Of course, the government supports this recommendation in principle. Having had the benefit of access to transcripts of the committee's public hearings and various submissions, the government is introducing an amended bill—a bill different to the draft bill that was sent to the committee—that accommodates and reflects many of the committee's concerns and recommendations.

Two key differences between the draft bill and the one we have before us today include: immunity from civil liability for the interim management committee under section 235 of the Local Government Act 2009 for all acts and omissions done honestly and without negligence; and removing the prohibition upon individual Ipswich city councillors from being a candidate in a by-election, or fresh election, held in any local government area between the bill's commencement and the 2020 quadrennial election. The bill, if passed, will see the Ipswich City Council dissolved and each Ipswich city councillor's term ended.

The bill also provides that the Governor in Council must appoint an interim administrator to act in place of the councillors for the interim period. The interim period is defined as the period starting when the interim administrator is appointed and ending at the conclusion of the quadrennial election of councillors for the Ipswich local government area to be held in 2020. The interim administrator will have all the responsibilities and powers of the Ipswich City Council and the mayor.

I turn now to the committee's recommendation 2, that the draft bill be amended to allow for the minister to appoint an acting interim administrator in circumstances of short-term absences of the interim administrator. The government supports this recommendation. Indeed, the bill already provides that if there is a vacancy in the office of the interim administrator, or the interim administrator is absent or cannot perform the duties of interim administrator, including short-term absences, the minister may appoint a person to act as interim administrator until the Governor in Council appoints a new interim administrator. If the interim administrator is ill and cannot perform the functions of the role for a short period, I may appoint a person to act as interim administrator during that period.

The committee's recommendation 3 is that the draft bill be amended to clarify that an Ipswich city councillor can be nominated as a candidate, or for appointment as a councillor, for any local government election in 2020. The public hearings and submissions to the committee raised concerns about the fairness of the consequences of the dissolution, particularly in relation to those members of the council against whom no allegations or charges have been made. The government supports this recommendation in principle. Further, the government proposes to allow Ipswich city councillors to nominate as a candidate for appointment as a councillor for any local government by-election in any local government area other than Ipswich in the period before March 2020. The explanatory notes clearly outline this change.

The Local Government Act and other acts apply to the interim administrator with all necessary changes and any changes prescribed under a regulation as if the interim administrator were the Ipswich City Council. This is now expressly stated in the bill rather than prescribed as a relevant Local Government Act provision. The interim administrator is protected from civil liability for an act done under the Local Government Act or the Local Government Electoral Act or an omission made under those acts honestly and without negligence under section 235 of the Local Government Act. The bill provides that the minister may appoint an interim management committee to help the interim administrator perform the administrator's responsibilities. Under section 124(6) of the relevant LGA provision, the Governor in Council may direct the Ipswich City Council to pay the costs and expenses of the interim administrator. The bill provides that this includes the costs and expenses of an interim management committee.

The bill provides that, unless the Supreme Court decides that a decision of the Governor in Council or minister in relation to the appointment of the interim administrator is affected by a jurisdictional error, that decision is final and conclusive and cannot be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise; and it is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal, or another entity on any ground. Concerns were raised relating to whether the draft bill has sufficient regard to the institution of parliament, whether it interferes with the independence or institutional integrity of the judiciary and whether the draft bill interferes with the institutional integrity of the Supreme Court by removing review rights.

As we in this House know, it is the responsibility of the parliament to make laws for the peace, welfare and good governance of the state. The enactment of this bill will be an exercise of the parliament's power to make these laws for Ipswich. Under our state's constitution, local government is a creation of the state government. It is beyond doubt that the parliament has the power to validly enact laws which adversely affect the interests and rights of persons, whether prospectively or with retrospective effect. In this particular instance, the government firmly believes that the right of Queensland citizens to have trust in their local government institutions outweighs the rights of the individual. In essence, in this case the rights of the Ipswich community must outweigh those of individual councillors.

In response to concerns about the bill's interference with the independence of the judiciary and restriction on review rights, the bill does not interfere with the judicial process but merely effects a change in the law. As mentioned previously, the bill expressly preserves review rights on the grounds of jurisdictional error, which has been held by the High Court to be a defining characteristic of the court. The bill commences by proclamation to ensure that the dissolution of the council and the end of each Ipswich city councillor's term aligns with the appointment of the interim administrator by the Governor in Council. Subject to the passage of the bill I will provide details of the proposed appointees.

Before concluding, I would like to reassure the staff of the Ipswich City Council that their needs are very much at the heart of the action we are taking today. I am sure that I am not alone in being shocked at the findings detailed in the CCC's report of its investigation into the Ipswich City Council, Operation Windage. The report states—

Further, it was identified that there was no way for employees to raise their concerns as they feared that these would not be kept confidential. Enquiries uncovered allegations of councillors harassing staff and making threats against them to ruin their career. In particular, several staff were fearful that it would be discovered that they had made a complaint and they would lose their jobs as a result.

I can advise the House that both my office and I have received many formal and informal approaches from council staff or their relatives, some of them anonymously. One Ipswich resident sent me a handmade 'get well soon, Ipswich City Council' card which, when opened, revealed what my correspondent called a 'prescription' for addressing the problems identified at Ipswich City Council: (1) minister sacks council; (2) accountability; (3) proper processes; and (4) stop councillors' greed. While this resident's effort at communicating her very clear view was perhaps an attempt to appear amusing, many approaches to me have been anything but. Indeed, they have been deeply distressing. Last week while attending a seniors event in my electorate an elderly woman came up to me and held my hand. She said that I was doing the right thing in dissolving the council. She then spoke of her son—a man with significant responsibilities in his role as a senior employee of the Ipswich City Council—who would ring her and cry while telling her about his experiences, what he saw and what he endured in his day-to-day working life. He spoke to her of a colleague whose mental health was so damaged that he feared for him. That woman's son has since left the employ of the council. He was no longer able to withstand the pressures of this moribund organisation, yet his colleague remains. One anonymous letter to my office from a young woman spoke of bullying, favouritism, sexism, inappropriate expenditure, inappropriate language and poor treatment of staff. This conduct went unchecked because this young woman said there was no-one she could complain to. As the CCC reported, there is something very wrong with the culture within the Ipswich City Council.

This council was once touted throughout the state as the very model of efficiency and modern practice, yet this council has overseen terrible failures of governance. This council openly set up special entities such as Ipswich City Properties to knowingly avoid public scrutiny and spend millions of ratepayers' dollars for little public outcome. I do not believe this council had anywhere near the regard it should have for the wellbeing of its staff. Staff who tried to challenge what was clearly unacceptable behaviour were bullied and intimidated just for doing their jobs. The people of Ipswich deserve better, and they will get much better under the arrangements we are putting in place and the path forward. Our job here today as a parliament, as outlined so clearly in the Constitution of Queensland, is to address the litany of serious governance and integrity failures that make for such shocking reading.

I thank the people of Ipswich for their patience, their resilience and, in many cases, their support. I would like to reassure them that the urgent measures we are taking today are aimed squarely at restoring stability, certainty and confidence to their community and economy. I commend the bill to the House.

### **First Reading**

**Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (11.37 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.