

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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Overview

As expected, this sitting week the focus of the House was on the consideration of legislation. During the previous sitting week, the House suspended debate on committee reports and the Budget Estimates for the remainder of the year. This week, the House also agreed that government business would take precedence over private members' business on Thursday 25 October 2012.

Against that background, the week saw the introduction, debate or consideration of 26 Government and one private member's bill. Eleven bills from the Legislative Assembly were considered and returned. Four bills introduced in the Council last week were considered and forwarded to the Assembly for concurrence with another three introduced this week and adjourned for five calendar days. The House commenced debate on six of the remaining nine bills.

Thursday 25 October marked the cut-off date for the consideration of Government bills. When the House next sits, in November, any bill introduced by a minister or received from the Legislative Assembly is to be considered on the first sitting day in 2013, unless the House considers the bill to be urgent.

Looking forward to when the House next sits, there are currently thirteen government bills on the Legislative Council Notice Paper.

Government business

Note: Government business includes Government bills introduced or carried by ministers in the Council.

Parliamentary Electorates and Elections Amendment (Redistribution) Bill 2012 and cognate Election Funding, Expenditure and Disclosures Further Amendment Bill 2012

The bills originated in the Legislative Assembly.

Summary: These bills primarily concern the redistribution of election boundaries for Lower House seats in NSW. Under section 28 of the *Constitution Act 1902*, in any distribution of electoral districts for the purposes of elections for the Legislative Assembly, the boundaries are

to be determined so that there are an equal number of voters in each electorate at the time the distribution is made, but with a margin of allowance not exceeding 10 per cent. In addition, section 17A of the *Parliamentary Electorates and Elections Act 1912* further requires that the Electoral Districts Commissioners have regard to demographic trends and as far as practicable endeavour to ensure that, at the time of the next scheduled State election, the number of voters in each electorate will be equal, but with a margin of allowance not exceeding three per cent.

The Parliamentary Electorates and Elections Amendment (Redistribution) Bill 2012 amends the *Parliamentary Electorates and Elections Act 1912* to increase the margin of allowance from three per cent to 10 per cent. The cognate Election Funding, Expenditure and Disclosures Further Amendment Bill 2012 makes amendments to the *Election Funding, Expenditure and Disclosures Act 1981* to ensure that the Electoral Funding Authority is able to enforce disclosure requirement for political parties in relation to political donations and electoral expenditure.

Proceedings: The bills were received from the Legislative Assembly on 24 October 2012 and read a first time. Debate on the second reading of the bills commenced the following day. In his second reading speech, the Minister (Mr Gallacher) indicated that the Parliamentary Electorates and Elections Amendment (Redistribution) Bill implements the recommendations of the Electoral District Commissioners following the 2004 redistribution of NSW districts. In their report on the 2004 redistribution, the Commissioners expressed the view that the three per cent projected margin of allowance was too restrictive to take into account electorates that are growing strongly, together with other factors required to be considered under the *Parliamentary Electorates and Elections Act* such as economic and social issues, and the physical features of an electoral district.

The Opposition supported the cognate Election Funding, Expenditure and Disclosures Further Amendment Bill, but opposed the Parliamentary Electorates and Elections Amendment (Redistribution) Bill 2012, citing the fundamental premise of one vote,

one value, and arguing that the bill would lead to malapportionment of State electoral districts.

The Greens similarly supported the cognate Election Funding, Expenditure and Disclosures Further Amendment Bill, while foreshadowing some minor amendments, but opposed the Parliamentary Electorates and Elections Amendment (Redistribution) Bill 2012. The Greens argued that the bill would lead to western NSW electorates such as Barwon and Murrumbidgee being down 10 per cent on average enrolments, and inner-city electorates such as Marrickville, Balmain, Sydney, Coogee and possibly Vaucluse being 10 per cent above average enrolments.

By contrast, members of the Government supported both bills, noting that the proposed change to the setting of electoral boundaries was recommended by the current NSW Electoral Commissioner, Mr Colin Barry, and citing examples where the current three per cent rule has made it very difficult to draw sensible electoral boundaries. The Christian Democratic Party also supported both bills on the basis that they will ensure the efficient operation of the electoral process.

In his address in reply, the Minister refuted suggestions that the legislation is about political advantage, citing the recommendations of Colin Barry, and disputing claims that the bills undermine the principle of one vote, one value.

The second reading debate was adjourned.

Independent Commission Against Corruption Amendment (Register of Disclosures by Members) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Independent Commission Against Corruption Act 1988* to remove any doubt that the ICAC may use the register of pecuniary interests or other matters disclosed by members of Parliament for the purposes of the Commission's investigations. Advice from the Crown Solicitor had indicated that despite strong arguments for and against, on balance it appeared that members' returns under the interest disclosure regime are protected by parliamentary privilege. This bill waives that privilege in relation to ICAC investigations only.

Proceedings: The bill was received from the Legislative Assembly on 24 October 2012 and read a first time. Debate on the second reading of the bill commenced the following day. In his second reading speech, the Minister (Mr Gallacher) indicated that the matter has arisen because the ICAC is shortly to commence public inquiries into alleged corrupt conduct by certain former ministers and members, for which purposes it has sought access to the interest disclosure returns of members for use in its investigations. He argued that privilege exists to protect the proceedings of the Parliament, not to shield individual members from proper accountability.

The Opposition did not oppose the bill, noting that the purpose of the register is to provide transparency and enhance the accountability of members and of the Parliament, and that it is entirely appropriate for the

ICAC to use and to make findings in respect of the register. The Greens supported the bill, arguing that the interest disclosure regime is not fundamental to the privileges of the House, and that members of Parliament should be transparent in all their disclosures. Similarly, the Christian Democratic Party supported the bill, arguing that parliamentary privilege should not be used to shield members from proper accountability.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Swimming Pools Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Swimming Pools Act 1992* to require swimming pools to be registered and to provide for the inspection of swimming pools and the issue of certificates of compliance by local authorities and accredited certifiers. The bill also amends other legislation to prevent the sale or lease of residential premises with swimming pools unless the pool is registered and there is a valid compliance certificate.

Proceedings: Debate on the second reading of the bill resumed on 23 October from 17 October 2012 (see previous edition of *House in Review* for earlier debate). The Christian Democratic Party supported the bill but held concerns relating to the administrative and cost impact on local councils.

In reply, the Minister said that with summer approaching it was imperative that there be no delay in implementing the new registration scheme and also noted that the Government will be conducting an awareness program to accompany the scheme's introduction.

The second reading was agreed to.

On debate on the third reading, the Greens indicated their support for the bill and commended the Government for bringing on the legislation. The Greens noted that the Law Society of New South Wales had raised a number of concerns related to the operation of the bill, which the Government had acknowledged and either taken action or made commitments to address.

The third reading of the bill was agreed to and the bill was returned to the Assembly without amendment.

Boarding Houses Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill establishes a registration and regulation regime for general boarding houses (boarding premises that provide beds for five or more residents). The bill also replaces the existing licensing and regulatory regime for residential centres for handicapped persons in the *Youth and Community Services Act 1973*, with a new regime, which includes service and accommodation standards, for what will now be called assisted boarding houses. The number of boarding houses in New South Wales is estimated at around 750, with the vast majority located in the Sydney metropolitan region.

Proceedings: The bill was received from the Legislative Assembly on 23 October 2012 and read a first time. The

second reading speech of the Minister (Mr Pearce) was incorporated into Hansard. In that speech the Minister indicated that the key purpose of the bill is to protect the rights of residents living in all boarding houses while promoting the sustainability of the boarding house industry. It was stated that the bill addresses longstanding issues in the industry including inadequate information about the unlicensed sector, an outmoded and inadequate regulatory framework, gaps in protections for residents and a lack of occupancy rights.

Members of the Government spoke in support of the bill, noting recent reports of both the Ombudsman and the State Coroner that had called for reform of the industry. The Opposition supported the bill, describing it as a good piece of legislation that had been informed by stakeholder input. The Opposition noted that the bill is modelled on the Australian Capital Territory's successful *Residential Tenancy Act 1997*, the experience of which demonstrated that the implementation of occupancy agreements will not threaten the industry. However, the Opposition expressed concern that the bill would allow for unaccompanied children to reside in assisted boarding houses, and foreshadowed that it would seek to address that issue in the committee stage. The Christian Democratic Party noted the widespread community, industry and bipartisan support for the bill. The Greens supported the bill and commended the consultation process that informed its development. While supporting the bill overall, the Greens noted the fact that a section of the industry (houses with four or less residents) will remain unregulated.

The second reading was agreed to.

In the committee stage, the Opposition moved an amendment to ensure that unaccompanied young persons with a disability are not permitted to reside in an authorised boarding house without written consent of the Director-General of the Department of Family and Community Services. The Government opposed the amendment arguing that dealing with such cases by way of regulation provides the necessary flexibility to ensure that children are not denied accommodation and forced to sleep on the street. The Government also noted that the regulations will require boarding house proprietors to notify authorities when unaccompanied children seek accommodation. The amendment drew the support of the Greens, but not that of the Christian Democratic Party who agreed with the need for flexibility to deal with such circumstances on a case by case basis. The amendment was negated.

The bill was reported to the House without amendment, read a third time and returned to the Assembly.

Electronic Conveyancing (Adoption of National Law) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill enacts in New South Wales the Electronic Conveyancing National Law which forms the basis for a national scheme for the electronic lodgement and processing of conveyancing transactions. The object of the national law is to promote efficiency throughout Australia in property conveyancing by providing a common legal framework that enables documents to be

prepared, lodged and processed in electronic form and does not derogate from the fundamental principles of the near 150 year old Torrens system of land titles.

Proceedings: Debate on the second reading of the bill resumed on 23 October from 17 October 2012. The Christian Democratic Party supported the bill, noting the anticipated cost and efficiency savings associated with the national scheme.

The Opposition and the Greens both supported the intent of the bill but wished to place on the record some technical criticisms of the bill, relating to digital signatures and electronic settlement, raised by the Law Society of New South Wales and the Law Council of Australia. Both parties were concerned that if these issues were not addressed they would affect the scheme's efficiency and uptake by industry practitioners.

In reply, the Parliamentary Secretary (Mr Mason-Cox) said the Government was confident that the bill reflects the input of bodies such as the Law Council of Australia and that the on-going consultation coordinated by the Australian Registrars National Electronic Conveyancing Council had addressed the concerns of major stakeholders.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

Tattoo Parlours Amendment Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Tattoo Parlours Act 2012* to make further provision with respect to the licensing and regulation of body art tattooists and tattooing businesses. The bill confers additional powers on authorised officers; allows the Police Commissioner to be provided certain information in connection with investigations; expands the definition of 'close associate'; and prohibits certain persons from performing body art tattooing procedures.

Proceedings: Debate on the second reading of the bill resumed on 23 October 2012 from 17 October 2012 (see the previous edition of *House in Review* for earlier debate). The Christian Democratic Party supported the bill and all its objectives. The Opposition supported the bill stating that this is a time of unprecedented levels of gun crime across Sydney and the measures in this bill are designed to crack down on illegal motorcycle gangs and their activities. The Greens did not oppose the bill arguing that it is a slight improvement of the original bill. However, the Greens stated that it will be largely ineffectual in cracking down on any kind of organised crime and argued that regulating tattoo parlours is not a sensible use of police time.

The second reading was agreed to.

In the committee stage, the Greens moved an amendment to require the Commissioner issuing a notice for an investigation to consider whether the request is reasonable. The Government did not support the amendment on the basis that the issuing of a notice should be based on relevance in relation to the evidence, not fairness. The amendment was negated on the voices.

The bill was reported to the House without amendment, read a third time and forwarded to the Assembly for concurrence.

Marine Safety Amendment (Domestic Commercial Vessel National Law Application) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Marine Safety Act 1908* to give effect in New South Wales to a new national scheme for the regulation of marine safety for domestic commercial vessels by applying the Marine Safety (Domestic Commercial Vessel) National Law of the Commonwealth as a law of New South Wales.

Proceedings: Debate on the second reading of the bill resumed on 23 October from 17 October 2012 (see the previous edition of *House in Review* for earlier debate). The Opposition, the Greens and the Christian Democratic Party all spoke in support of the bill. The Greens expressed concern that alignment with the national law might diminish the current high standard of maritime safety in the State, and noted that they looked forward to the finalisation of the regulations to ensure they enhanced the protection of the environment and the safety of people at sea.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

State Revenue Legislation Further Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill makes miscellaneous amendments to certain State revenue legislation. Of note, it extends the regional relocation home buyers grant to the purchase of vacant land in a regional area, and exempts from duty the purchase of new heavy vehicle trailers.

Proceedings: The bill was received from the Legislative Assembly on 16 October 2012 and read a first time. Debate on the second reading of the bill commenced on 23 October 2012. The second reading speech of the Minister (Mr Pearce) was incorporated into Hansard. In that speech, the Minister indicated that the bill continues the practice of regular revision of State revenue legislation to address anomalies, respond to court and tribunal decisions and deal with changes in business practice.

The Opposition did not oppose the bill, while criticising the regional relocation home buyers grant as a failed scheme with very low participation. The Greens also did not oppose the bill, while expressing concern at the 'race to the bottom' amongst States in lowering fees on heavy trailers. The Christian Democratic Party supported the bill.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Passenger Transport Act 1990* by transferring to that Act provisions relating to ticketing and passenger conduct offences from the *Rail Safety Act 2008*. The *Rail Safety Act* is to be repealed in due course as part of the implementation of a national scheme dealing with rail safety which does not cover the matters transferred by this bill. The bill also provides for the enabling of a 'smartcard' ticketing system to be introduced on trains, buses and ferries.

Proceedings: The bill was received from the Legislative Assembly on 18 October 2012 and read a first time. Debate on the second reading of the bill commenced on 23 October 2012. The second reading speech of the Parliamentary Secretary (Mr Ajaka) was incorporated into Hansard. In that speech, the Parliamentary Secretary indicated that the purpose of the bill is to firstly, consolidate regulation-making powers to allow for future consistent passenger ticketing and conduct offences for all transport modes into the *Passenger Transport Act 1990*; and, secondly, to enable the introduction of an integrated electronic ticketing system across the transport network. The Parliamentary Secretary further noted that the bill provides for the automatic appointment of police officers as authorised officers for the enforcement of regulations on public transport, which will support the operation of the dedicated Police Transport Command to patrol trains, buses and ferries.

Members of the Government spoke in support of the bill. The Christian Democratic Party supported the bill, in particular noting the bill's role in enabling the introduction of an integrated ticketing system. The Opposition and the Greens also supported the bill but both parties queried the introduction of the legislation given that the Government was still receiving submissions to its passenger transport legislation discussion paper. The Opposition raised the issue of privacy protection relating to access to information stored on an individual's smartcard. In reply, the Parliamentary Secretary advised that privacy safeguards would be established within departmental procedure and policy rules for individual electronic systems, rather than within the legislation.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Law Enforcement (Powers and Responsibilities) Amendment (Kings Cross and Railways Drug Detection) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill authorises the use by police officers of dogs for general drug detection (without warrant) on the streets and in other public places in the Kings Cross precinct. The bill also adds additional train lines on which police officers may use dogs for that purpose so that all suburban train lines on which CityRail operates train services are covered.

Proceedings: Debate on the second reading of the bill commenced on 24 October 2012. In his second reading speech, the Minister (Mr Gallacher) explained that the bill enacts part of the Government's Kings Cross management plan by targeting alcohol and drug-related crime, along with antisocial behaviour within the entertainment precinct. The Minister argued that the bill will also improve security for passengers on the CityRail network, by ensuring that a consistent approach to drug enforcement is adopted across every suburban and outer suburban line. Acknowledging the formal establishment of the NSW Police Force Transport Command in May 2012, the Minister assured the House that the bill will equip those officers with enhanced powers to tackle crime on the transport network.

The Opposition did not oppose the bill, but questioned whether the changes would have been better made by way of regulation, while also citing concerns that the use of drug detection dogs would adversely affect the operation of the Kings Cross Medically Supervised Injecting Centre. The Greens opposed the bill, in particular criticising both the effectiveness of drug detection dogs in general, and their use in the vicinity of the injecting centre so as to discourage persons from attending. The Christian Democratic Party supported the bill.

In his address in reply, the Minister refuted concerns about the use of drug detection dogs, arguing that they are an extremely useful policing tool in detecting illicit drugs and preventing their sale and use. He also criticised the Opposition and the Greens for focusing much of their comments on the Kings Cross Medically Supervised Injecting Centre, while saying very little about the expansion of the drug detection dog program throughout the transport system.

The second reading was agreed to.

In the committee stage the Greens moved an amendment to prevent the use of dogs to carry out general drug detection in the vicinity of the injecting centre. The amendment was negatived (Division 18:21). A Government amendment to include the Cumberland Line within the new schedule of prescribed CityRail lines on which drug detection operations can be mounted by police was agreed to, with the Greens opposing (Division 33:5).

The bill was reported to the House with the amendment, read a third time and returned to the Assembly. Later that day, the House received a message advising that the Assembly had agreed to the Council's amendments to the bill.

Primary Industries Legislation Amendment Bill 2012

The bill originated in the Legislative Council

Summary: The bill amends four pieces of legislation dealing with the agriculture and fisheries industry. Amendments to the *Apiaries Act 1985* simplify the process for the registration of beekeepers. Amendments to the *Fisheries Management Act 1994* will improve enforcement of the Act by clarifying requirements concerning records of commercial fishing activities.

Amendments to the *Stock Medicines Act 1989* will increase flexibility for vets in treating animals, including by removing unnecessary regulatory requirements in the taking of samples. Amendments to the *Stock Foods Act 1940* will require the labelling of all stock food prior to its sale. The bill also makes a consequential minor amendment to the *Pesticides Act 1999*.

Proceedings: Debate on the second reading of the bill resumed on 24 October 2012 from 17 October 2012 (see the previous edition of *House in Review* for earlier debate).

The Opposition, Christian Democratic Party and the Greens all supported the bill, with the Greens noting the timeliness of the amendments to the *Stock Foods Act 1940*, particularly those relating to the repackaging and labelling of poultry stock feed.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

Director of Public Prosecutions Amendment (Disclosures) Bill 2012

The bill originated in the Legislative Assembly.

Summary: Section 15A of the *Director of Public Prosecutions Act 1986* requires police officers when investigating offences to disclose to the Director of Public Prosecutions (DPP) all relevant material that might assist the case for the prosecution or the defence. In response to the decision in *The Queen v Lipton*, the Act was amended in 2011 to confirm the long standing practice whereby a police officer with sensitive material is not obliged to disclose it to the DPP, but must inform the DPP of its existence.

The bill amends the Act by extending these disclosure obligations to officers of the NSW Crime Commission, the Police Integrity Commission and the Independent Commission Against Corruption. The bill also clarifies the exception from disclosure applicable to claims of privilege, public interest immunity or statutory immunity, and to material that is subject of a statutory publication restriction.

Proceedings: The bill was received from the Legislative Assembly on 17 October 2012 and read a first time. Debate on the second reading of the bill commenced on 24 October 2012. The second reading speech of the Parliamentary Secretary (Mr Clarke) was incorporated into Hansard. The speech of the Parliamentary Secretary noted that the bill broadens the obligations relating to disclosure of material to the DPP by applying it to all law enforcement officers who brief the DPP. In doing so the bill strikes a balance between the investigator's need to protect the safety of witnesses and investigative processes with the DPP's duty to ensure a fair trial for the accused.

The Opposition did not oppose the bill, noting that it did not oppose the 2011 bill, and that this bill provides a sensible ongoing solution to the ramifications of the *Lipton* decision.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Cancer Institute (NSW) Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Cancer Institute (NSW) Act 2003* to make the provisions in the Act dealing with the constitution and governance of the Cancer Institute consistent with similar provisions in the *Health Service Act 1997* that deal with board governed statutory health corporations.

Proceedings: The bill was received from the Legislative Assembly on 24 October 2012 and read a first time. Debate on the second reading of the bill commenced later that day. The Parliamentary Secretary (Mrs Pavay) incorporated her second reading speech into Hansard. In that speech, the Parliamentary Secretary indicated that the bill brings the Cancer Institute into the public health system to enable its participation in a more collaborative and cohesive fashion with other public health organisations while still maintaining its independence and key statutory functions. The Chief Cancer Officer of the Cancer Institute has been consulted and supports the proposed amendments.

The Opposition and the Greens opposed the bill, arguing that its purpose is to roll the resources of the Cancer Institute into the Department of Health so that over time those financial resources will be redirected to other areas. They argued that this will emasculate the Institute and it will no longer have the capacity to continue with its work. The Christian Democratic Party supported the bill stating that a streamlined system would result in efficiencies, effectiveness and more money going into research. As the Institute is not the only organisation that conducts cancer research its integration will help share information and create networks.

The second (Division 21:18) and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Crimes Administration of Sentences Legislation Amendment (Interstate Transfers) Bill 2012

The bill originated in the Legislative Assembly.

Summary: There are three uniform national model statutory schemes providing for the transfer of community-based sentences, parole orders and prisoners between Australian jurisdictions. The *Crimes (Interstate Transfer of Community Based Sentences) Act 2004*, the *Parole Orders (Transfer) Act 1983*, and the *Prisoners (Interstate Transfer) Act 1982* are the NSW versions of the uniform national model legislation.

The bill makes various amendments to these three Acts. The amendments have been endorsed by the COAG Standing Committee on Law and Justice. All jurisdictions have undertaken to introduce amendments to their own interstate transfer Acts to maintain the national model interstate transfer legislation and facilitate the efficient transfer of offenders and their sentences.

Proceedings: The bill was received from the Legislative Assembly on 23 October and read a first time. Debate on the second reading of the bill commenced on 24 October 2012. The Parliamentary Secretary (Mr Clarke) incorporated his second reading speech into Hansard.

That speech outlined that one of the major initiatives of the bill is to provide a statutory basis for reciprocal arrangements for an interstate travel permit scheme to allow offenders subject to community-based sentences and parole orders to temporarily travel interstate and have their sentences administered by the host jurisdiction.

The Opposition did not oppose the bill noting that it was making beneficial and sensible legislative changes, such as the new requirement for interstate prisoner transfers to be made to a 'mutually convenient location', rather than to a prison only. The Greens supported the bill as it gives the potential to make the prisoner transfer system more flexible and efficient, and more responsive to the rehabilitation needs of some offenders.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Petroleum (Onshore) Amendment (Royalties and Penalties) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Petroleum (Onshore) Act 1991* and the related 2007 regulation by: prescribing a flat rate of royalty of 10% for petroleum production; increasing penalties for certain offences relating to mining and exploration; and by conferring jurisdiction on the Land and Environment Court to hear proceedings under the Act. The bill also amends the *Mining Act 1992* by increasing penalties for mining and exploration offences.

Proceedings: The bill was received from the Legislative Assembly on 24 October 2012 and read a first time. Debate on the second reading of the bill commenced on 25 October 2012. The Parliamentary Secretary (Mr Ajaka) incorporated his second reading speech into Hansard. In it, the Parliamentary Secretary indicated that the changes to royalty payments made by the bill will support the establishment of regional community funds to channel royalties from coal seam gas production into projects to benefit local communities. In addition, the five year royalty holiday period implemented to encourage initial investment in the petroleum industry, will be removed. From 1 January 2013, royalty payments will commence when production starts.

Members of the Government spoke in support of the bill, noting the public's desire for appropriate penalty levels for mining related offences. The Opposition supported the bill but criticised the Government for failing to consult with industry on the matter. The Greens also supported the bill particularly the removal of the current five year royalty holiday. The Greens emphasised that their support for the bill should not be construed as support for the coal seam gas mining industry. The Christian Democratic Party supported the bill and looked forward to evidence of the monies collected from royalties being used to provide much needed infrastructure in regional communities.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Local Government Amendment (Conduct) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Local Government Act 1993* by making further and strengthening existing provisions in relation to the conduct and discipline of councillors and council staff, delegates and administrators, including authorising the Director-General of the Department of Premier and Cabinet to conduct an investigation to determine whether a councillor has engaged in misconduct and to require information or documents from councillors or council staff as part of such investigations.

Proceedings: The bill was received from the Legislative Assembly on 24 October 2012 and read a first time. The Minister (Mr Pearce) incorporated his second reading speech into Hansard. In it, the Minister acknowledged that the Model Code of Conduct for local councils was not working as intended and had been open to misuse for political point scoring which had led to needless investigations. The provisions in the bill reflect the Government's collaboration with the local government sector and extensive consultation in order to design a new conduct system that supports the highest standard of behaviour in local government in a simple, clear and cost-effective way.

The Christian Democratic Party supported the bill, particularly the removal of local council General Managers from the complaint process. The Opposition did not oppose the object of the bill but held concerns that its implementation might have unintended consequences in the sector. The Opposition noted that the fact that only a draft copy of the new code of conduct had been released was causing some concern among stakeholders, and called on the Government to ensure that the final Code was produced when the governing regulation was introduced. The Opposition also questioned the need to consider the bill at this time as the entire Act is currently being reviewed with a view to a comprehensive update next year.

The Greens, notwithstanding a number of concerns, viewed the bill as a step forward from the complexity and expense of the current Code of Conduct. The Greens foreshadowed that it would seek to amend the bill to establish procedural safeguards so that councillors are afforded natural justice and to establish clear privilege against self-incrimination, particularly for junior council officers, to ensure investigations are not inhibited.

The second reading was agreed to. Consideration of the bill in detail in committee was set down for a later hour of the sitting.

Rail Safety (Adoption of National Law) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill implements a national scheme for rail safety by applying as law of the State the Rail Safety National Law. This reform is part of the COAG 'National Partnership Agreement to Deliver a Seamless National Economy'.

Proceedings: The bill was received from the Legislative Assembly on 23 October and read a first time. In his second reading speech, the Parliamentary Secretary (Mr Ajaka) indicated that the bill will streamline rail safety across Australia, whilst ensuring that the current standards which apply to rail safety in NSW are maintained and strengthened.

The Opposition did not oppose the bill, but indicated that it would be seeking to amend the bill to insert into bill fatigue management provisions that exist in current NSW legislation. The Greens supported the bill, noting that it will make it easier for businesses to choose rail to transport their goods around the country. The second reading was agreed to.

In the committee stage, the Government opposed the Opposition amendment concerning fatigue management on the basis that it would put NSW out of step with other States, and that the matter can be dealt with by regulation under the new regime. The Greens supported the amendment. The amendment was negatived.

The bill was reported to the House without amendment, read a third time and returned to the Assembly.

Miscellaneous Acts Amendment (Directors' Liabilities) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends various Acts and Regulations to implement COAG reforms relating to the harmonisation across Australian jurisdictions of legislation relating to the criminal liability of directors, including by changing the category or type of liability imposed for certain offences.

Proceedings: Debate on the second reading of the bill commenced on 24 October 2012. The Parliamentary Secretary (Mr Clarke) incorporated his second reading speech into Hansard. In it, the Parliamentary Secretary indicated that the bill implements nationally consistent and principles-based reforms to the legislation governing the criminal responsibility of directors and officers for corporate offences, and noted that the bill reduces the number of offences to which special directors' liability provisions apply from over 1,000 to around 150. For most of these 150 provisions, the reverse onus of proof has been removed except in the case of a small number of core environmental offences where such provisions are justified by compelling public policy reasons.

Debate was adjourned until the next sitting day.

Liquor Amendment (Kings Cross Plan of Management) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Liquor Act 2007* and other legislation to implement the first stage of a plan of management for the Kings Cross precinct. The measures in the plan implemented by the bill include: extending until 24 December 2015 the existing freeze on granting liquor licences and other liquor-related authorisations; extending the boundaries of the precinct; excluding small venues from the freeze; and authorising the regulations

to impose specific licence conditions relating to premises in the precinct.

Proceedings: The bill was received from the Legislative Assembly on 24 October 2012 and read a first time. Debate on the second reading of the bill commenced on 25 October 2012. In his second reading speech, the Minister (Mr Gallacher) said that the bill permits an informed and sensible approach to regulation when considering the different types of licensed businesses that exist in the precinct. The Minister argued that the community wants the Government to take action and clean up the Cross now, and that it is the Government's intention for the current draft regulations to take effect from 1 December this year to ensure that they are in place for the summer season.

The Opposition supported the bill, noting that the bill's provisions were consistent with an announcement made in September by the Premier on the action that would be taken in relation to Kings Cross which the Opposition supported at the time. The Opposition noted that it continued to advocate for increased train services as a means to disperse late-night patrons, as opposed to the Government's approach of increased bus services.

The Greens did not oppose the bill, but argued that the bill does not address the main issues contributing to alcohol-fuelled violence and misbehaviour in the precinct. The Greens foreshadowed they would seek to remove the section of the bill that provides a basis for refusing entry to premises to persons wearing clothing identifying the wearer with a particular organisation. The Greens argued that the section, while clearly aimed at members of outlaw motorcycle gangs, could be applied too broadly and used against persons identifying themselves with political parties or social movements.

Debate was adjourned until a later hour.

Statute Law (Miscellaneous Provisions) Bill 2012 (No. 2)

The bill originated in the Legislative Assembly.

Summary: The bill makes minor and inconsequential amendments to 23 separate Acts. The form of the bill is similar to that of previous bills in the long-standing statute law revision program. This is the second statute law bill presented this year, with the first being considered in June 2012.

Proceedings: The bill was received from the Legislative Assembly on 23 October and read a first time. The second reading of the bill was set down for a later hour of the sitting.

Biofuels Further Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Biofuels Act 2007* and the *Biofuels Regulation 2007* by clarifying the way in which exemptions from the minimum biofuel requirements can be granted, varied or revoked, increasing the maximum penalties for key offences, clarifying the powers of investigators and establishing minimum biofuel requirements for petrol and diesel fuel sold by volume fuel sellers in New South Wales.

Proceedings: The bill was received from the Legislative Assembly on 24 October 2012 and read a first time. The second reading of the bill was set down for a later hour of the sitting.

Environmental Planning and Assessment Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Environmental Planning and Assessment Act 1979* and other Acts to remove impediments to the supply of housing, including by clarifying the purpose, status and content of development control plans and how they are to be taken into account during the development assessment process.

Proceedings: The bill was received from the Legislative Assembly on 24 October 2012 and read a first time. The second reading of the bill was set down for a later hour of the sitting.

The following bills were introduced in the Council during the sitting week, debated and adjourned for five calendar days

Forestry Bill 2012

The bill originated in the Legislative Council.

Summary: The bill establishes a new framework for the management and use of State forests and other Crown-timber land for forestry and other purposes. The bill constitutes the Forestry Corporation of New South Wales as a statutory State owned corporation and specifies its objectives and functions. The bill also repeals the *Forestry Act 1916* and the *Timber Marketing Act 1977* and makes amendments to certain other legislation.

Proceedings: The bill was introduced, read a first time and printed on 24 October 2012. In his second reading speech, the Minister (Mr Gay) stated that the bill will improve the management and use of over two million hectares of State forests and provide greater efficiencies for the timber industry. The Minister pointed out that State forest land will remain publicly owned and public access to State forests will not change.

The Minister said that the general nature of the business to be conducted by the Forestry Corporation will remain the same as the former Forestry Commission, but that the change in governance will benefit taxpayers in terms of a better return on the community's assets.

Debate was adjourned for five calendar days.

Bail Amendment (Enforcement Conditions) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Bail Act 1978* to enable a court, when granting bail to an accused person, to impose a bail condition (an enforcement condition) that requires the accused person to comply with specified kinds of directions that are given by police officers for the purpose of monitoring or enforcing compliance with another bail condition.

Proceedings: The bill was introduced, read a first time and printed on 24 October 2012. In his second reading speech, the Minister (Mr Gallacher) indicated that the bill

will provide police with clear powers to monitor and enforce bail enforcement conditions. The new law addresses concerns raised by the NSW Supreme Court in *Lawson v Dunlevy* in which the Court found that the imposition by police of so-called 'alcohol bail' – in which police enforced conditions prohibiting the consumption of alcohol by employing a breath test – was contrary to the *Bail Act 1978*. The Minister explained that this decision had produced procedural uncertainty for police, and a consequent reduction in activities associated with bail monitoring and compliance. The Minister noted a number of safeguards within the bill, including provisions that enable courts to place limits on enforcement conditions and ensure conditions are only imposed where appropriate.

Debate was adjourned for five calendar days.

Road Transport (General) Amendment (Private Car Parks) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill removes any requirement for Roads and Maritime Services (RMS) to disclose name and address details of driving licence holders held on its registers to parties involved in court action relating to the recovery of fees for private car park usage.

Proceedings: The bill was introduced, read a first time and printed on 25 October 2012. In his second reading speech, the Minister (Mr Gay) said that the questionable practices of some commercial car park operators had given rise to the need for this bill. The Minister said that operators had made use of the preliminary discovery process to require RMS to release details of private individuals to them and then used that information as part of their business model to direct payment notices to car park users. The Minister said this practice has caused significant public concern, and that the bill would ensure that the information held by RMS is released only for proper purposes.

Debate was adjourned for five calendar days.

Private members' business

Note: Private members' business is business introduced by members of the House other than Government ministers. There are two types of private members' business: private members' bills and private members' motions.

Bills

Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012 (Revd Mr Nile, Christian Democratic Party)

Summary: The bill seeks to amend the *Drug and Alcohol Treatment Act 2007* to further provide for the involuntary rehabilitative care of persons with severe substance dependence. Provisions in the bill include providing a rehabilitation option where persons can agree to undergo out-patient treatment which includes having naltrexone implanted under their skin and counselling for relapse prevention; and increasing the maximum time for which

a person may be involuntarily detained from 28 to 90 days.

Proceedings: Standing orders were suspended to bring on the item of business, and leave was granted to bring in the bill on 25 October 2012. The bill was presented, read a first time and printed. In his second reading speech, Revd Mr Nile said that the bill is based on Swedish legislation which supports coercive drug rehabilitation programs in that country. Revd Mr Nile said he recognised that the bill represents an innovation in terms of drug rehabilitation programs and legislation in the State, and that in due course he would seek to have General Purpose Standing Committee No 2 consider and report on the measures proposed by the bill.

Debate was adjourned for five calendar days.

Motions taken as formal business

The following items of private members' business were agreed to as formal business without amendment or debate:

- (1) Diabetes Awareness Week (Mrs Maclaren-Jones)
- (2) Sovereign Hospitaller Order of St John of Jerusalem Knights of Malta (Mr Clarke)
- (3) Central Coast bushfires (Mr Donnelly)
- (4) Joan Sutherland Theatre, Sydney Opera House (Ms Ficarra)
- (5) Pakistan Australia Business Council (Mr Moselmane)
- (6) Professor David Horner AM (Mr Lynn)
- (7) His Grace Bishop Daniel (Mr Moselmane)
- (8) Battle of El Alamein (Mr Lynn)
- (9) Sydney Sanskrit School (Mr Clarke)
- (10) Anzac Community Grants (Mr Lynn)
- (11) Eid Al-Adha (Mr Moselmane)
- (12) 2012 Netball Quad series (Ms Ficarra)
- (13) Grupo Pastoral Don Bosco (Mr Clarke)
- (14) Beirut attack (Mr Moselmane)
- (15) *Edwards v Canada* (Mr Ajaka on behalf of Mr Khan)
- (16) National Week of Deaf People (Ms Westwood)
- (17) 20th anniversary of the declaration of independence of the Republic of Nagorno-Karabakh (Ms Ficarra)
- (18) Mr Nabil Tammous (Ms Voltz on behalf of Mr Moselmane)
- (19) Coptic Orthodox Church (Mr Clarke)
- (20) Australian Egyptian Council Forum (Mr Clarke)
- (21) Kokoda Trail (Mr Lynn).

Petitions received

- (1) Religious discrimination – 21 signatures (presented Mr Moselmane)

Reports tabled

Ombudsman: Special report entitled 'How are Taser weapons used by the NSW Police Force', October 2012.

Register of Disclosures by Members: The Deputy President tabled a copy of the Register of Disclosures by Members of the Legislative Council for the period 1 July 2011 to 30 June 2012.

Independent Commission Against Corruption: 'Investigation into the recruitment of contractors and other staff by a University of Sydney IT manager', October 2012.

Committee activities

Note: Committee activities includes committee references, reports tabled, debate on committee reports, government responses received and any other significant committee activity in the House. Committee activity as part of a current inquiry is summarised in the following section entitled 'Inquiry activities'.

Committee reports tabled

Legislation Review Committee: 'Legislation Review Digest No. 27/55', 23 October 2012.

Select Committee into the closure of the Cronulla Fisheries Research Centre of Excellence: Report No. 1 entitled 'Closure of the Cronulla Fisheries Research Centre of Excellence', dated October 2012.

Privileges Committee: Report No 63 entitled 'Citizen's Right of Reply (Mr Col Disselkoen)', dated October 2012.

Joint Standing Committee on the Office of the Valuer General: Report 1/55 entitled 'Interim report on the eighth general meeting with the Valuer-General', dated October 2012.

Inquiry activities

Note: Inquiry activities include committee activities as part of an active inquiry. It includes hearings, site visits and other meetings. This section also notes which committees are receiving submissions and upcoming committee inquiry activity.

As reported in the previous edition, the House has agreed to suspend debate on committee reports, which normally takes precedence on Tuesday afternoon, for the remainder of the year, due to the volume of legislation before the House.

Standing Committee on State Development

The Committee has received 105 submissions to its Inquiry into the adequacy of water storages in NSW. The Committee will conduct its second site visit to Orange and the Murrumbidgee Valley in late October. The Committee will hold its first regional hearing in Wagga Wagga on Thursday 1 November, followed by a hearing at Parliament House on Friday 16 November 2012.

General Purpose Standing Committee No. 5

The Committee held public hearings and site visits in Bourke and Coonabarabran on 25-27 September, and Port Macquarie and Grafton on 3-5 October, for its Inquiry into public land management. The Committee has now published 427 submissions to the Inquiry, having received about 600 in total. Planning is underway for the next hearings at Parliament House in early December.

Select Committee on the Closure of the Cronulla Fisheries Centre

The Committee received 108 submissions, held three public hearings and a public forum, and conducted three site visits for this inquiry. The Committee tabled its final report, containing 13 recommendations, on Tuesday of this week.

Select Committee on the Partial Defence of Provocation

The Committee has received 52 submissions and held three public hearings for this inquiry. The Committee also published an Options Paper for consultation with stakeholders. The Committee is now preparing its report which is due to be tabled by 21 November 2012.

Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities

The Committee is currently accepting submissions with a closing date of Wednesday 7 November 2012. The Committee will initially hold two public hearings in Sydney on Friday 23 November and Monday 10 December 2012, and has a reporting date of Friday 14 June 2013.

Budget Estimates 2012-2013

Supplementary budget estimates hearings are scheduled for the week 26-30 November 2012. Most of the committees have agreed to wait until the receipt of answers to Questions on Notice before deciding whether to hold further hearings. This year 3,289 supplementary questions were received by the Budget Estimates Secretariat and the answers to these are due between 1 and 7 November 2012. GPSC 4 however, has already agreed to hold a supplementary hearing for the Police portfolio to examine matters relating to Strike Force Emblems. The Committee decided not to press questions in relation to this matter during the initial Police hearing on 11 October, until the witnesses and the Committee had an opportunity to seek legal advice regarding statutory secrecy provisions.

Adjournment debate

Tuesday 23 October 2012

Genetically modified crops (Mr Blair); The Middle East (Mr Moselmane); Bellata Gurley Action Group Against Gas (Mr Buckingham); Tribute to Bruce Leslie Ward (Mr Colless); Tribute to Ray Gietzelt (Ms Voltz); Voluntary euthanasia (Ms Fachrmann); The Greens (Dr Phelps).

Wednesday 24 October 2012

Tribute to Ray Gietzelt/Tribute to Jack Sponberg/
Tribute to Joe Owens (Mr Primrose); Firearms legislation
(Mr Brown); Calvary Health Care Sydney (Mr Ajaka);
State of the Beaches report (Mr Secord); Hunting in
National Parks (Mr Borsak); Parliamentary Spring Ball/
Women's Electoral Lobby Fortieth Anniversary dinner
(Mrs Pavey); The Greens (Dr Phelps).

Thursday 25 October 2012

Women's homelessness (Ms Barham); Kododa flag
raising seventieth anniversary (Mr Lynn); Bangladesh
human rights (Ms Voltz); Crime legislation (Mr
Shoebridge); GLORIA awards (Ms Sharpe); Illegal drugs
(Mr Clarke).

Feedback on *House in Review*

We welcome any comments you might have on this
publication.

We are particularly keen to know which parts of the
House in Review you find most useful and whether you
have any suggestions for improvement. Please email your
comments to stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.



David Blunt
Clerk of the Parliaments