

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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31 May to 2 June 2016

The *House in Review* provides regular updates of the activities of the New South Wales Legislative Council. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website www.parliament.nsw.gov.au or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on council@parliament.nsw.gov.au.

Overview

Proceedings in the House took a particularly reflective tone this week as the Council debated a condolence motion in tribute to Dr John Kaye MLC, in which many members spoke of the loss to members, the Parliament and the community.

The House continued to work through the government's legislative agenda for the autumn sitting period, agreeing to five bills, debated a private member's bill that sought to ensure that public works projects use steel that is manufactured in Australia. The 2016 [budget estimates](#) hearing schedule was also agreed to this week, and a debate was held on the challenges faced by those with schizophrenia.

The House stands adjourned until Tuesday 21 June 2016, the final sitting week before the winter recess.

Condolence motion – Dr John Kaye MLC

On Wednesday 1 June 2016, the Leader of the Government and Leader of the House moved a condolence motion placing on record the deep sense of the loss sustained to the state and the House by the death of Dr John Kaye, a member of The Greens. Dr Kaye's passing was reported to the House on 3 May 2016 (see [previous House in Review](#)), after which the House immediately adjourned with a view to a condolence motion at a later date.

Members of Dr Kaye's family, friends, colleagues and staff were present in the galleries for the debate. In particular, the President invited attention to the presence in his gallery of Ms Lynne Joslyn, partner of Dr Kaye. While members acknowledged the many causes for which Dr Kaye was a passionate and effective advocate – including public education, renewable energy, electoral funding law reform, opposition to the construction of Tillegra Dam, greyhound racing reform, TAFE funding, urban planning and medicinal cannabis – members particularly stressed his many personal attributes, with all acknowledging him as a man of unquestionable integrity.

Members spoke to his “titanic intellect”, tenacity and persuasive ability to put an argument. Members and ministers recalled his forensic approach to questioning in committee inquiries and Question Time and his detailed preparation. He was acknowledged as consistent, hard working and a true parliamentarian, who believed passionately in the role of Parliament, separate from the Executive Government, and the role of the Legislative Council as a House of Review. Dr Kaye's colleagues in The Greens recognised the considerable contribution he had made to strengthening the party through his advocacy and passion and by drawing people into the party. Each of The Greens members who spoke to the motion acknowledged his role in mentoring them both within the party and as members of the Council.

Many members also spoke to Dr Kaye's sense of humour and deep kindness and compassion, observing his capacity to get on well with people across the political spectrum and from all walks of life. Members from all sides stated that they considered Dr Kaye a valued friend who took a sincere interest in the lives of his fellow members and their families, beyond politics.

Following an emotional debate, the motion was agreed to, all members and officers standing as a mark of respect.

Budget Estimates 2016-2017

On Wednesday 1 June 2016 the Government moved a motion to refer the Budget Estimates and related papers for 2016-2017, to be tabled in the coming weeks, to the general purpose standing committees for inquiry and report. The motion included a hearing schedule, similar in content to that agreed to in previous years, with the addition of an amendment to provide for GSPC No. 3 to examine the Legislature portfolio instead of GPSC No. 1 this year (for scheduling reasons).

The Opposition moved an amendment to the motion to extend the hearings over two weeks rather than the usual one week by inserting a free day between each day of hearings. The amendment was defeated (Division: 15/20), and the motion of the Government was agreed to in its original form.

Government business

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

[Emergency Services Levy Insurance Monitor Bill 2016](#)

House of origin: Legislative Assembly

Fire and Rescue NSW, the NSW Rural Fire Service and the NSW State Emergency Service have operating costs of more than \$1 billion per year, 73 per cent of which is currently funded by a levy on insurance policies. In December 2015 the Government announced its intention to abolish the insurance-based levy and from 1 July 2017 replace it with an emergency services property levy (ESPL) that will be payable by all property owners as an addition to council rates, regardless of whether they have insurance.

The bill is the first of two pieces of legislation that will implement these reforms. The bill establishes an Emergency Services Levy Insurance Monitor, responsible for ensuring that insurers lower premiums once the current levy has been abolished. The bill also allows the Monitor to obtain insurance data then pass that data to NSW Treasury to inform modelling on the effects of different options for the proposed levy, the legislation for which will be introduced later in the year. The former Monitor and Deputy Monitor in Victoria have already been appointed to the New South Wales positions and will carry out their functions until 1 January 2019.

The Parliamentary Secretary stated that the vast majority of insured residential property owners would be better off under the ESPL, saving an average of \$40 per year, and that the new arrangements will also bring New South Wales into line with all other mainland states. Other Government members noted that by shifting the levy to council rates, thereby reducing insurance premiums, the 36 per cent of property owners not currently insured would be encouraged to take out a policy.

The Opposition advised that their support for the bill would be contingent on agreement to amendments they would move during committee of the whole (see below for detail). The Christian Democratic Party stated their support for the creation of the Monitor, but raised concerns that the altered levy arrangements would be used to cost-shift to local councils. The Greens opposed the bill, stating that while they were supportive of the Monitor's role in supervising the implementation of the new arrangements, they strongly opposed the ESPL itself. The Greens argued that the structure of the new levy would increase the financial burden on residential property owners from \$315 million to \$525 million per annum, and on rural property

owners from \$49 million to \$84 million, while the burden on businesses would decrease from \$340 million to \$91 million per annum. The second reading was agreed to on the voices.

In committee of the whole, the Opposition moved 11 amendments which sought to make the Monitor permanent, and to require the minister to table all reports prepared by the Monitor in both Houses. The amendments were defeated (Division: 13/19) and the bill was reported without amendment.

The third reading was agreed to (Division: 19/13) and the bill was returned to the Assembly without amendment.

Crimes (High Risk Offenders) Amendment Bill 2016

House of origin: Legislative Assembly

The *Crimes (High Risk Offenders) Act 2006* allows the State of NSW to apply to the Supreme Court for preventative orders to supervise or detain high risk violent or sexual offenders who pose an unacceptable risk of committing a serious violent or sexual offence on their release from prison. The bill clarifies the categories of offenders who fall within the scope of the Act to include those who have been imprisoned for wounding with intent to cause grievous bodily harm, manslaughter by unlawful and dangerous act, and murder that occurs in the course of committing another serious crime, known as 'constructive murder'.

The Parliamentary Secretary stated that the bill addresses limitations whereby some very violent crimes, such as shootings and stabbings, are potentially not covered by the current terms of the Act due to the technical elements of the offence the person was charged with. The Parliamentary Secretary observed that the mechanism provided for under the Act is utilised in only the most serious cases, with only one Continuing Detention Order and nine Extended Supervision Orders having been made since 2013, and that a statutory review of the Act is currently underway to examine whether the Act is achieving its objectives.

The Opposition did not oppose the bill, arguing that its impact would be modest and would ensure that the Act covered the categories of offences envisaged when the Act was previously amended in 2013 under the former Labor Government. The Greens opposed the bill, arguing that the Act has removed the concept of finality in the criminal law by allowing offenders who have served their sentence to be kept in detention, and that they did not support extending the scope of those provisions any further. The Christian Democratic Party supported the bill, arguing that people who commit the offences captured by the bill should be considered for extended supervision or detention to protect the community.

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

Marine Legislation Amendment Bill 2016

House of origin: Legislative Council

The bill was introduced on Tuesday. The bill amends the *Marine Safety Act 1998* and the *Ports and Maritime Administration Act 1995* by introducing new provisions, consistent with roads and maritime law, relating to penalties for operating a vessel in a dangerous and menacing manner and disqualification periods for drug and alcohol offences. The bill provides new powers to police for the seizure, impoundment or forfeiture of recreational vessels if certain serious offences have been committed and allows for random drug testing of vessel operators, streamlining marine compliance and investigation powers, and includes a provision for the development of a maritime camera detection scheme for use in proceedings for offences. The Minister stated that the bill will improve enforcement, help protect the safety of waterways and consolidate marine legislation.

Under sessional order, the bill was declared urgent, enabling the bill to proceed through all stages despite being introduced after the [cut off date](#). Debate on the bill was adjourned.

[Norfolk Island Administration Bill 2016](#)

House of origin: Legislative Council

Debate resumed from 4 May 2016 (see [previous House in Review](#) for an outline of the Parliamentary Secretary's second reading speech explaining the purpose of the bill).

The Opposition opposed the bill, citing concerns around the uncertainties involved in extending NSW administration and legislation to Norfolk Island, as well as the financial impacts for the state. The Opposition also pointed to the lack of any consultation or representation mechanism between the NSW Government and Parliament and the residents of Norfolk Island in respect of laws that are passed which may have an application to those residents. In order to explore these issues, the Opposition moved an amendment to the second reading motion referring the bill to General Purpose Standing Committee No. 1 for inquiry and report. The Greens also opposed the bill, arguing that it is against the wishes of the majority of residents of Norfolk Island and will see NSW laws being imposed on them in circumstances where they have no say in the formation of those laws. The Greens supported the Opposition amendment to refer the bill to General Purpose Standing Committee No. 1, however the amendment was defeated (Division 15:20).

The Christian Democratic Party (CDP) supported the bill, stating that the NSW Government expects full cost recovery for taxpayers for any services provided to Norfolk Island. Government members also spoke in support of the bill, arguing that it allows NSW to be of service to the Norfolk Island community by putting its service delivery arrangements onto a sustainable footing, and pointing out that it is the Australian Government that decides which NSW laws apply to Norfolk Island as Commonwealth laws. The second reading was agreed to (Division 20:15), with the Opposition, The Greens and the Animal Justice Party voting against the bill.

During consideration of the bill in committee of the whole, The Greens moved one amendment which sought to require the Department of Premier and Cabinet to prepare a public report regarding available options to extend the democratic franchise of the people of NSW to the people of Norfolk Island. The amendment was defeated (Division 14:18).

On the third reading being moved, the Opposition stated that, as their attempt to refer the bill to a committee had been unsuccessful, they would oppose the bill. The third reading was agreed to (Division 18:14), the CDP voting with the Government, and the bill was returned to the Assembly without amendment.

[Taxation Administration Amendment \(Collection and Disclosure of Information to Commonwealth\) Bill 2016](#)

House of origin: Legislative Council

Debate resumed from 11 May 2016 (see [previous House in Review](#) for an outline of the Parliamentary Secretary's speech explaining the purpose of the bill).

The Opposition did not oppose the bill, but noted that the disclosure of information by public service agencies could have far-reaching implications for privacy which had not been adequately addressed by the Government. The Opposition also noted that the bill would introduce additional administrative processes and increase red tape. The Greens did not oppose the bill but also raised concerns that the privacy implications of the bill had not been addressed and that the information to be disclosed was not contained within the definitions section of the bill. The Greens foreshadowed that they would move an amendment during committee of the whole. The CDP supported the bill, noting that it did so in the hope that the Government would improve housing affordability by ensuring that, as a result of the disclosures required by the bill, foreign investment is made compliant and fair with a view to maximising affordable housing for all Australians. The second reading of the bill was agreed to.

During consideration in committee of the whole the Greens moved an amendment to ensure that the information required by the bill could not be disclosed should the disclosure be contrary to the provisions of s19(2)(a) to (h) of the *Privacy and Personal Information Protection Act 1998*, which places special restrictions on the types of information that may be disclosed by public sector agencies. The amendment was defeated and the bill was reported without amendment.

The third reading was agreed to and the bill was forwarded to the Assembly for concurrence.

Statute Law (Miscellaneous Provisions) Bill 2016

House of origin: Legislative Council

Debate resumed from 11 May 2016 (see [previous House in Review](#) for an outline of the Parliamentary Secretary's speech explaining the purpose of the bill).

Members unanimously supported the bill. The Opposition observed that the bill continues the practice of successive governments over many years to make minor policy changes, to repeal redundant legislation and to maintain the quality of the statutes in New South Wales. The Greens noted that each of their members had reviewed the contents of the bill as it pertained to their individual portfolio and would not oppose the bill. The Christian Democratic Party (CDP) highlighted several effects of the bill which they stated to be of particular benefit, including provisions relating to child protection orders, official community visitors, certifications and notifications for persons with a mental illness, and consequential amendments following the privatisation of the Home Care Service and transfer functions to Australian Unity.

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

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.

Motions

Order for papers – Learning Management and Business Reform (Mr Searle, Labor Party)

The motion sought to order the production of documents from the Office of the Minister and Department of Education regarding Learning Management and Business Reform monthly reports to the Department of Education executive.

The Learning Management and Business Reform program is a project designed to replace various computer systems and roll them into one information technology system in schools and TAFEs, including human resources, payroll, finance and student administration. Mr Searle stated that the program was intended to be completed by December 2014 but is now more than 12 months late and significantly over budget. Mr Searle acknowledged that the motion followed an order on the same subject earlier in 2015 that, due to the manner in which the resolution had been interpreted, had not produced the documents sought. Mr Searle argued that access to the documents was vital if members were to shine a light onto the efficacy of the rollout and spending.

The Government opposed the motion, arguing that the Government had already provided information regarding the program via freedom of information requests, answers to questions in both Houses and the order previously agreed to. The CDP also opposed the motion on the basis of the departmental resources that would be required to meet the request. The Greens supported the motion, citing the technical difficulties that had been encountered by TAFE as a result of the program and arguing that it was important to identify what was going wrong so that the problems could be fixed. The motion was negated (Division: 18/19).

Schizophrenia Awareness Week (Mr Farlow, Liberal Party)

The motion acknowledged activities hosted by the Schizophrenia Fellowship of NSW during Schizophrenia Awareness Week and throughout the months of May and June, including a symposium held in Sydney with the theme ‘Succeeding Together in Mental Health’, and a parliamentary luncheon held this week and attended by the Chair of Mental Health Australia. The motion also acknowledged that schizophrenia is still widely misunderstood in the community, and called on the House to support initiatives that aim to destigmatise mental health illnesses.

In moving the motion, Mr Farlow acknowledged the work of the Schizophrenia Fellowship of NSW, a community-based, not-for-profit organisation that brings consumers, carers and professionals together to improve the lives of people living with schizophrenia and associated disorders. Mr Farlow stated that the average life expectancy of people with mental illness is 25 to 30 years less than for other people in the community, and that schizophrenia not only impacts significantly on those who have been diagnosed with the illness but also on their families, carers and others close to them. Mr Farlow spoke to the importance of supporting organisations that worked to destigmatise mental illness and provide vital services to those in need.

Members unanimously supported the motion, speaking both to the important activities undertaken by non-government organisations such as Schizophrenia Awareness NSW and to their own experiences of mental illness, either personally or amongst friends and family. Members acknowledged the significant progress made in treatments and support services in recent years, and in efforts to address the stigma so often attached to mental illness, but observed that there was still significant work to be done to ensure that those suffering mental illness and their families receive adequate care and treatment.

Debate on the motion was interrupted and set down for resumption next sitting day.

Bill

Steel Industry Protection Bill 2016 (Mr Shoebridge, The Greens)

Debate resumed from 17 March 2016 (see [previous House in Review](#) for an outline of the member’s second reading speech explaining the purpose of the bill).

The Government opposed the bill, arguing that it would violate Australia’s free trade agreements with other countries, creating the risk that those countries will retaliate by placing tariffs on Australian exports. The Government also stated that the bill would increase red tape for steel suppliers and contractors, adding to the cost of managing construction projects.

The Opposition spoke in support of the bill, noting that domestic production now supplies less than half of the steel used in public infrastructure projects, and arguing that many of the countries with which Australia has free trade agreements are themselves in the process of imposing tariffs to protect their own domestic steel industries. The Opposition also spoke about the job uncertainty currently facing steelworkers in the Illawarra, and the impact that job losses would have for the Illawarra community and economy, as well as the state’s economy more broadly. The Opposition also foreshadowed amendments to be moved in committee of the whole stage which will establish a steel industry advocate.

The Shooters, Fishers and Farmers Party and the Christian Democratic Party also spoke in support of the bill, noting that high level skills will be lost if the steel industry is not protected and emphasising the importance of securing regional jobs in the steel industry.

Debate on the bill was adjourned to the next sitting day.

Motions taken as formal business

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

- (1) Laconian Federation celebration of Greek olive oil (Mrs Houssos).
- (2) Chinese-Australian art exhibition at NSW Parliament (Mr Wong).
- (3) Father Christos (Mrs Houssos).
- (4) World Lupus Day (Mr Mallard).
- (5) Literary contribution of Emeritus Professor John Y Wong (Mr Wong).
- (6) National Reconciliation Week (Mrs Houssos).
- (7) White Stone Support Services (Mr Clarke).
- (8) Association for the Development of Arabic Folk Poetry (Mr Clarke).
- (9) India Club and NSW Police community forum (Mr Clarke).

Petitions received

- (1) **Keep local government local** – 234 signatures (presented by Mr Shoebridge)
- (2) **Irregular petition: Extension of Gold Coast Airport** – 23 signatures (presented by Ms Barham).

Committee activities

Committee reference

General Purpose Standing Committees: The House referred to the General Purpose Standing Committees the inquiry into budget estimates for 2016-2017. The timetable is available on the [Budget Estimates](#) website.

Committee report tabled

Legislation Review Committee: 'Legislation Review Digest No. 19/56', dated 31 May 2016.

Committee reports debated

Government business took precedence of debate on committee reports and therefore no committee reports were debated this week.

Inquiry activities

Select Committee on the Legislative Council committee system

The committee has received 20 submissions and held a hearing on 29 April. The committee conducted a private roundtable meeting in late May to consider options and recommendations for its report and will meet again in early August to further consider these matters.

General Purpose Standing Committee No. 2

Inquiry into elder abuse in New South Wales

The report is currently being drafted and is expected to be tabled on 24 June 2016.

Inquiry into child protection

The closing date for submissions is 3 July 2016.

General Purpose Standing Committee No. 3

Inquiry into reparations for the stolen generations in New South Wales

The report is currently being drafted and is expected to be tabled on 23 June 2016.

General Purpose Standing Committee No. 5

Inquiry into water augmentation for rural and regional New South Wales

The closing date for submissions is 14 August 2016.

Law and Justice Committee

First review into CTP insurance scheme

The committee has received 12 submissions. A public hearing will be held on 17 June 2016.

State Development Committee

Inquiry into economic development in Aboriginal communities and inquiry into regional planning processes in NSW

In late May the committee conducted site visits on the far South Coast for the inquiry into economic development in Aboriginal communities, and held a hearing in Narooma in relation to both inquiries. The committee will release a discussion paper in July for the inquiry into economic development in Aboriginal communities, and will shortly announce further hearings for the inquiry into regional planning processes.

Procedure Committee

Inquiry into young children accompanying members into the House

The Committee received 16 submissions to its inquiry. Submissions were received from a number of members and from other Australian and overseas parliaments.

The Committee is currently considering the potential of options for reform, and will table its report in the last sitting week in June.

Reports tabled

Ombudsman: 'Fostering economic development for Aboriginal People in NSW', dated May 2016.

Auditor-General:

- (1) 'Performance Audit report: Early Childhood Education, Department of Education', dated May 2016.
- (2) 'Financial Audit report: Volume Two 2016, focusing on Universities', dated June 2016.

Adjournment debate

Tuesday 31 May 2016

The Nationals' annual general conference (Mrs Mitchell); Local government amalgamations (Mr Veitch); Coal production forecasts (Mr Buckingham); Central Coast education and health facilities (Mr Farlow); China study tour (Mr Secord); Animal rights and recreational hunting (Mr Borsak).

Wednesday 1 June 2016

Workplace flexibility (Mrs Houssos); Pest animal management review (Mr Brown); Federal election (Dr Phelps); Clubs and community awards (Ms Cotsis); Offshore detention centres (Dr Faruqi); Chaffey Dam upgrade (Mr Khan); State of Origin (Mr MacDonald).

Thursday 2 June 2016

Climate change (Ms Barham); South Durras hazard reduction burn (Ms Sharpe); Federal election campaign (Mr MacDonald); Boer War (Mr Green); Electoral donation funding (Ms Voltz); Religious freedom (Mr Clarke).

Feedback on *House in Review*

We welcome any comments you might have on this publication, particularly those relating to the parts of *House in Review* you find most useful and any suggestions for improvement. Please email your comments to

stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.



David Blunt
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