

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 56/40

*Sitting period
30 May to 1 June 2017*

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

The House considered four government bills this week, and while doing so sat past midnight for the first time this year. On Wednesday, the House considered and passed the Firearms and Weapons Legislation Amendment Bill, which involved consideration in the committee of the whole for some six and a half hours. All up, the House sat on Wednesday for 16 hours and 16 minutes. In addition to the four government bills, the House also considered one private member's bill relating to local government amalgamation referendums and two private members' motions. In another procedural highlight, the House considered a dissent from the ruling of the Chair, the first such motion considered since 2001.

The House stands adjourned until Tuesday 20 June 2017.

Government business

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

Revocation of the dedication of parcels of State Forests

On Wednesday 31 May 2017, the Parliamentary Secretary (Mr Colless) moved a motion calling on the House to agree to a proposal, tabled in the House on 30 May 2017, to revoke the dedication of parcels of land in eight State Forests.

The Parliamentary Secretary explained that while the eight sites are classified as state forest they are not forested land but are used for Forestry Office complexes, depots and ancillary buildings associated with the management of state forests. Revocation of the sites would allow greater flexibility in the management of the buildings and a more responsible use of public funds. It would not necessarily lead to the sale of the land and two of the sites would be used as regional headquarters for the Forestry Corporation.

The Opposition opposed the motion, arguing that the community should have a say in the future of public land and that the sites should only be sold if the community has been consulted and agrees with the sale. The Opposition also argued that instead of being transferred to the Forestry Corporation and sold, the land could be returned to the Crown estate. The Greens opposed the motion, expressing concern at the sale of public land without consultation. The Shooters Fishers and Farmers Party indicated that it would vote against the proposal as they had not had time to consult with their constituents in the areas where the sites are located.

The motion was agreed to on the exercise of the President's casting vote following a division in which the votes were equal (18:18). In accordance with section 15 of the *Forestry Act 2012*, the resolution of the House was communicated to His Excellency the Governor.

Firearms and Weapons Legislation Amendment Bill 2017

House of origin: Legislative Council

Debate resumed from 24 May 2017. The bill amends various laws in respect of the categorisation of firearms, firearms and weapons amnesties, ammunition controls, licences and permits and administrative arrangements. The bill implements the recent National Firearms Agreement, including the reclassification of lever action shotguns to category D (See [previous edition](#) of House in Review for an outline of the Minister's speech.)

The Opposition supported the bill, noting that the Government had undertaken consultation in relation to the bill and that NSW Police had endorsed the proposed changes. Particular aspects noted by the Opposition included tighter regulation of lever action shotguns, removal of the existing requirement for firearms dealers to record addresses of people purchasing ammunition (which currently provides a potential ammunition 'treasure map'), and prohibition of the collection of component parts which can be used to make a prohibited firearm.

The Shooters Fishers and Farmers Party (SFFP) argued that while the bill included some good measures, it opposed other aspects, particularly the reclassification of lever action shotguns which it argued scapegoats lawful firearms users for the criminal actions of others. In that regard, the SFFP noted that the perpetrators of the Martin Place siege and the Port Arthur massacre did not hold firearms licences, and argued that gun related suicide and homicide rates have not been affected by tighter gun laws introduced since 1996, that no crime with a lever action shot gun has been committed in NSW and that lever action shot guns have been available in Australia for over 100 years.

The Greens expressed support for provisions of the bill establishing a temporary amnesty for the surrender of firearms and providing for the revocation of the licence or permit of a person subject to an apprehended violence order or on a sex offender register. However, The Greens raised concerns about other aspects of the bill, including the grandfathering provisions which will allow existing licence holders to continue to hold weapons at the existing classification levels, the increase in the number of firearms a farmer may hold for pest control, the watering down of ammunition controls which currently facilitate police intelligence when tracking down crimes, the watering down of safe storage requirements for firearms, and the reduction of controls on imitation firearms.

The Christian Democratic Party (CDP) commended elements of the bill but echoed the SFFP's concerns in relation to other aspects, particularly the reclassification of lever action shotguns. The CDP also suggested that the three month temporary amnesty for the surrender of firearms could be extended to at least six months.

A government member also spoke to the bill questioning the proposed reclassification of lever action shotguns to category D. The member argued that lever action shotguns are not automatic or semi-automatic weapons and have been in existence for 130 years and that category B firearms which have fewer restrictions can be purchased with a larger calibre.

The second reading was agreed to on division (31:5), The Greens voting against the motion.

The bill came under intense consideration during the committee stage which commenced at 8.00 pm and concluded at 2.45 am the next morning. The SFFP moved 50 amendments and The Greens moved eight, both parties seeking to amend the bill in order to address the concerns they had highlighted during their respective second reading speeches. Only four questions on a proposed amendment, or on amendments moved in globo, were decided on the voices, with the remaining 22 questions being decided on division.

Overall, the amendments proposed by The Greens drew the support of the Animal Justice Party only, while, with a few exceptions, the amendments proposed by the SFFP drew only the support of the CDP. The SFFP amendments seeking to reclassify lever and pump action shotguns also drew the support of a single Government member, amendments seeking to establish a Firearms Ombudsman were also supported by the Opposition, and amendments to require personal collection of firearms licences and to remove paintball guns from firearms regulation were also supported by the Opposition and the AJP.

Ultimately, however, no amendments were agreed to and the bill was reported without amendment.

The third reading was agreed to on division (27:8), with the SFFP, the CDP, The Greens and the AJP voting against the motion. The bill was forwarded to the Assembly for concurrence.

[Electronic Transaction Legislation Amendment \(Government Transactions\) Bill 2017](#)

House of origin: Legislative Council

Debate resumed from 24 May 2017. The bill provides for the electronic service and publication of documents, the use of electronic forms, and a trial of digital driver licences. (See [previous edition](#) of House in Review for a more detailed outline of the bill.)

The Opposition did not oppose the bill but questioned the purpose of the regulation-making power contained in the bill, and raised concerns about the apparent side-lining of the role of Justices of the Peace as a result of the introduction of the online completion of forms. The Opposition also argued that Schedule 6 of the bill, which postpones the commencement date for various legislative provisions, calls into question the Government's competence in rolling out its legislative reforms.

The Greens welcomed moves to facilitate digital interaction between government and citizens but argued that there must be clear safeguards to ensure that citizens' data is protected and cannot be used for purposes other than those agreed to by the citizen. The Greens also noted that there is currently no requirement for the Government to publicly report on the digital driver licences trial, and that the move to paperless transactions depends on a reliable internet connection which is lacking in many parts of regional NSW. It was in relation to this last point that Mr Buckingham (The Greens) attempted to make comment about the quality of the National Broadband Network in the regions. The Deputy President ruled that this contribution was outside the leave of the bill, and hence ruled out of order, to which Mr Buckingham subsequently moved a dissent to the Chair's ruling. This was the first such dissent to a Chair's ruling since 2001. The dissent motion was negatived on the voices.

The Christian Democratic Party commended the bill to the House but asked that the Government ensure that the needs of groups such as the elderly are given proper consideration when introducing digital reforms.

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

[Mining and Petroleum Legislation Amendment Bill 2017](#)

House of origin: Legislative Council.

The bill amends certain mining and petroleum legislation to make further provision with respect to ancillary mining activities, enforceable undertakings and the administration and enforcement of that legislation. Debate on the second reading of the bill resumed from 24 May 2017 (see previous *House in Review* for details of the introduction of the bill and the Minister's second reading speech).

The Opposition did not oppose the bill, noting that all relevant stakeholders had been consulted and no difficulties with the legislation had been raised by them. The Greens supported the bill as it would ensure that ancillary mining activities (AMAs) are regulated, and welcomed the provision to include multiple AMAs on a single mining title. The Greens did express concern however that it was not clear under what

circumstances an AMA would be granted an exemption from the regulatory framework in the bill. The Greens also questioned what would be the expected timeframe for the publishing of enforceable undertakings. The Christian Democratic Party supported the bill on the grounds that it clarified and simplified regulation of ancillary mining activities while maintaining a strict environmental framework.

In reply, Minister Harwin noted that the bill provides that once enforceable undertakings are reached they should be published as soon as practicable, and further advised that he would direct that the enforceable undertakings guidelines be updated to indicate that publication of such an undertaking is to occur within two weeks. The Minister also highlighted the power provided in the bill to impose mandatory audit conditions on mine operations.

The second reading was agreed to. The bill was considered in the committee stage in order to allow the Government to correct a minor drafting anomaly relating to the application process for exploration licences.

The bill was reported with an amendment from the Government, read a third time and forwarded to the Assembly for concurrence.

Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill 2017

House of origin: Legislative Assembly.

At present, a member of Parliament elected before the closure of the Parliamentary Contributory Superannuation Scheme in 2007 is disqualified from receiving any pension under that scheme if the person ceases to be a member because of a conviction for a serious offence or while proceedings for a serious offence are pending and is later convicted of the offence. The bill amends the *Parliamentary Contributory Superannuation Act 1971* to provide for the same disqualification from receiving a pension if the person is charged with and convicted of a serious offence after ceasing to be a member for conduct that occurred while the person was a member.

The bill also amends the *Crimes (Sentencing Procedure) Act 1999* to provide that a court must not take into account, as a mitigating factor in sentencing, the loss of a person's entitlement to a parliamentary pension because of conviction for a serious offence. The bill was introduced in response to the recent convictions of two former members of the Legislative Council, Mr Obeid and Mr MacDonald.

In his second reading speech, Minister Harwin said that the bill addresses an anomaly in the current Act which allows former members who have engaged in serious criminal activity to protect their pension by resigning from Parliament before being charged, and that the bill would ensure that legitimate community concerns about former members' access to pension entitlements in cases involving serious criminal conduct were addressed.

The Opposition supported the bill, noting that the ALP had long supported such legislative change and had offered to work with the Government to that end. The Opposition noted that there had been a number of resignations in recent years in order to take advantage of the loophole in the Act that is now being closed by the bill. The Greens supported the bill, arguing that it meets reasonable community expectations. The Greens in particular supported the provision in the bill removing the loss of pension as a mitigating factor during sentencing.

The second reading was agreed to.

In the committee stage, the House agreed to four Animal Justice Party amendments requiring members convicted of a serious offence to repay any pension or lump sum payments received minus their net contributions, and clarifying that a former member's pension is suspended until all proceedings and appeal options are finalised.

The third reading was agreed to and the bill was returned to the Assembly with amendments. The Assembly subsequently indicated its agreement to the amendments inserted in the Council.

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

[Local Government Amendment \(Amalgamation Referendums\) Bill 2017 \(Mr Borsak, Shooters, Fishers and Farmers\)](#)

The object of the bill is to amend the *Local Government Act 1993* to provide that plebiscites are to be held to determine whether the electors of the local government areas amalgamated by the Government during 2016 wish the amalgamations to be reversed, and that certain proposed amalgamations of local government areas are not to proceed unless approval for this has been provided by the electors at a referendum.

Debate resumed from 25 May 2017, ([see previous House in Review for details](#)).

Members of the Government continued to voice their opposition to the bill. Government members said that the amalgamation process, while considered and independent, had also been long and difficult, and argued that to put those amalgamated councils through a plebiscite would only serve to re-open difficult issues in those communities. Government members noted that council amalgamations was a perennial issue and that there had been various waves of amalgamations over the last twenty years in particular, including under the former Labor Government, and on that basis claimed the bill was an exercise in political opportunism which would only cause uncertainty in the community. Government members outlined a number of significant infrastructure projects that had commenced as a result of monetary savings achieved due to the amalgamations proceeding.

In contrast, the Opposition reiterated its support for the bill, presenting a different view on the success of recent amalgamations to that espoused by the Government. The Opposition argued that the boundaries of many of the newly amalgamated councils were based on political considerations rather than on shared communities of interest.

The Christian Democratic Party said that it saw merit in the bill and that it put forward a sturdy case of procedural fairness. However, the CDP agreed with the Government in that it was important that those communities that had experienced amalgamations were given time to heal and not be subject to further uncertainty. Debate was adjourned.

Motions

The Bible Society (Mr Green, Christian Democratic Party)

The motion notes the 200 year anniversary of the Bible Society, which was established on 7 March 1817 by Governor Lachlan Macquarie and his wife, Lady Macquarie, and that on Sunday 5 March 2017, a National Celebration of the Bible was held to mark the anniversary.

Debate on the motion resumed from 30 March 2017 (see earlier [House in Review](#) for details).

Members continued with the themes from earlier debates on the motion, paying tribute to the work of the Society over the past 200 years and noting the Bible's claim to being the most famous and most widely read book in history. In reply, Mr Green noted the contributions from other speakers, particularly those who had shared the role the Bible had played in their lives, and commented on the inspiration that the Bible had and continues to provide.

The motion was agreed to.

Penalty Rates (Mr Mookhey, Australian Labor Party)

The motion notes the February 2017 decision of the Fair Work Commission to vary seven employment awards by cutting penalty rates on Sundays and public holidays, argues that the decision will cut the take home pay of workers across the State, that while other jurisdictions made a submission to the Commission defending these penalty rates, the NSW Government did not, calls on the Premier to explain her Government's decision not to make a submission to the Commission to save penalty rates, and expresses support for Federal ALP moves to overturn the Commission's decision.

Speaking to the motion, Mr Mookhey (ALP) noted that the decision to cut Sunday and public holiday penalty rates will result in workers having to take a pay cut of up to \$77 per week, or \$4004 per annum, which is an effective wage cut of up to 8 per cent of their household income. As a result, hundreds of thousands of workers have had to accept a lower living standard, while in contrast, Mr Mookhey observed that this is a sacrifice that not one chief executive officer from Australia's top 200 companies has been asked to make for the prosperity of the economy. Another ALP member also spoke in support of the motion.

The Parliamentary Secretary (Mr Farlow) spoke against the motion, noting that while the Government supports penalty rates, it is not the job of the State government to talk about rates set by the Federal Government. Mr Farlow noted that the Government is committed to increasing the number of jobs in the State, and has been successful in this endeavour with over 330,000 jobs being created since it came into power. The Parliamentary Secretary noted that the Government believes any consideration of the impact of penalty rates should focus on increasing incentives for employment growth, and business should be supported in promoting employment, especially at a time of ongoing economic uncertainty.

The motion was adjourned.

Motions taken as formal business

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

- (1) 'A Fit Place for Women: NSW Parliament' exhibition (Mrs Maclaren-Jones).
- (2) Opposition to nuclear power in New South Wales (Mr Buckingham).
- (3) 2017 National Sorry Day (Mr Shoebridge).
- (4) Australian National University Ethnocultural Week (Dr Faruqi).
- (5) 69th Independence Day of Israel (Mr Clarke).
- (6) Attacks on Coptic Christians in Egypt (Mr Donnelly).
- (7) Tamil Arts and Culture Association 2017 Pongal Festival (Mr Clarke).
- (8) 2017 Reconciliation Week (Mr Moselmane).
- (9) New South Wales Association of Jewish Ex-Servicemen and Women ANZAC Day commemoration (Mr Clarke).
- (10) 2017 National Sorry Day (Mr Moselmane).
- (11) 2017 National Constitutional Convention (Mr Shoebridge).
- (12) 50th Anniversary of the 1967 Referendum relating to Aboriginal Australians (Mr Moselmane).
- (13) 2017 Fire and Rescue Services graduation and ceremony day (Mr Clarke).
- (14) Chaldean Catholic Church Solemn Mass (Mr Clarke).

- (15) New Holocaust Exhibition at the Sydney Jewish Museum (Mr Clarke).
- (16) Cure Brain Cancer Foundation Gala Ball (Mrs Maclaren-Jones).
- (17) 2017 World Red Cross Day Celebrations and Award Presentation (Mrs Maclaren-Jones).
- (18) Robe to Victoria walk re-enactment of early Chinese migrants (Mr Wong).
- (19) Back to School Program (Mr Franklin).
- (20) St Florian's Day (Mr Farlow).
- (21) Suicide bombing at Manchester Arena (Mr Wong).
- (22) 2017 Tamworth Regional Council Community Volunteer of the Year Awards (Mrs Maclaren-Jones).
- (23) Reception for Governor Judge Ramzi Nohra and Colonel Wajih Matta (Mr Clarke).
- (24) Jack Luck Foundation "How to Stop Youth Suicide" event (Mr Farlow).
- (25) Artstate conference and festival (Mr Franklin).

Committee activities

Committee reports tabled

Legislation Review Committee: 'Legislation Review Digest No. 38/56', dated 30 May 2017.

Committee reports debated

General Purpose Standing Committee No. 5: The House continued the take note debate on Report No. 45 entitled 'Commercial fishing in New South Wales', dated February 2017.

Standing Committee on Law and Justice: The House continued the take note debate on Report No. 60 entitled "First review of the workers compensation scheme", dated March 2017.

Inquiry activities

Select Committee on Human Trafficking

The committee has received 28 submissions and held its third hearing on 29 May 2017. The final hearing will take place on 15 June and the committee is due to report by September 2017.

Standing Committee on Law and Justice

First review of the Dust Diseases and Lifetime Care and Support schemes

The committee has received ten submissions for the review of the Lifetime Care and Support scheme and six submissions for the Dust Diseases scheme. The committee held its first

hearing on 2 June 2017, with a second hearing to be held on 28 June 2017.

Standing Committee on State Development

Inquiry into regional development and a global Sydney

Submissions to the inquiry close on 4 June. A Sydney hearing will be held on 19 June and regional visits will be conducted in August and September 2017. The committee is due to report by April 2018.

Defence industry in New South Wales

Submissions to the inquiry close on 18 June. A Sydney hearing will be held on 3 August and regional visits will be conducted in August and September 2017. The committee is due to report by June 2018.

Portfolio Committee No. 2 – Health and Community Services

Inquiry into road tolling

The report is currently being drafted.

Portfolio Committee No. 3 – Education

Inquiry into students with disability or special needs in New South Wales schools

The committee has received 413 submissions and has held four public hearings to date. The next hearing will take place on 8 June in Lismore, to be followed by a final hearing in Sydney on 23 June 2017.

Portfolio Committee No. 4 – Legal Affairs

Inquiry into museums and galleries

The committee will hold an additional hearing in June 2017. The report is currently being drafted and is due to be tabled on 25 August 2017.

Emergency services agencies

The closing date for submissions is 23 July 2017 and the committee intends to hold public hearings in late 2017.

Portfolio Committee No. 5 – Industry and Transport

Inquiry into water augmentation for rural and regional New South Wales

The committee has received over 100 submissions and held a number of regional hearings. A hearing was held in Sydney on 2 June and a further hearing will be held on 5 June 2017. The committee has extended its reporting date to 30 March 2018.

Portfolio Committee No. 6 – Planning and Environment

Inquiry into energy from waste technology

Submissions closed on 28 May 2017. Hearings will take place on 26 and 27 June, with more to follow in August 2017. The committee is due to report by the end of the year.

Reports tabled

Ombudsman: Erratum to the annual report of the Acting Ombudsman for year ended 30 June 2016, 29 May 2017.

Adjournment debate

Tuesday 30 May 2017

Affordable housing (Mr MacDonald); Government services privatisation (Mr Graham); Public transport privatisation (Dr Faruqi); Trundle ABBA Festival (Mr Colless); Far West Water Reform Plan (Mr Mookhey); Climate change (Mr Shoebridge); President John F. Kennedy (Dr Phelps).

Wednesday 31 May 2017

Gundagai Council amalgamations (Mr Veitch); Industrial relations (Mr Shoebridge); Members of Parliament behaviour (Mrs Taylor); Fire and Emergency Services Levy (Mr Primrose); State economy (Mr Field); Lennox Head Against the Ski Jump Group (Mr Franklin).

Thursday 1 June 2017

Perpetration induced traumatic stress (Mr Pearson); Donald Trump (Mr Clarke); Koala conservation (Ms Sharpe); Pittwater infrastructure (Mr Moselmane); Jack Luck Foundation (Mr Farlow); Catholic Church and child sexual abuse (Mr Shoebridge).

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