

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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12 to 14 September 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

This week saw the House pass two government bills which had originated in the Legislative Assembly and the introduction of one government and two private members' bills.

However, activity in the House this week was dominated by non-legislative matters. The release by the Government on Monday of the interim report of the investigation by Mr Ken Matthews into water management was the catalyst for debate and a range of procedural motions on each sitting day. The contents of the report gave rise a ministerial statement, an attempt to have the House discuss a matter of public importance and the moving of motion seeking to censure the Minister for Regional Water.

Before these matters, the first item debated by the House was a condolence motion regarding the passing of the Honourable John 'Johnno' Johnson a former long-serving and highly regarded member and President of the Legislative Council.

This edition of House in Review also includes a special supplement covering the Budget Estimates hearings which took place from 30 August to 7 September 2017

Condolence motion – the Hon John Richard (Johnno) Johnson

The Honourable John Johnson was a member of the House representing the Australian Labor Party from 1976 to 2001. In 1978 Mr Johnson was elected President of the Legislative Council, a position in which he served with distinction until 1991.

On 9 August 2017, the President announced to the House the death that day of Mr Johnson, aged 87 years. The Leader of the Government then moved a condolence motion that the House express and place on record its deep sense of the loss sustained to the State and the House by the death of Mr Johnson. It was agreed that debate be adjourned in order to allow members time to reflect on their contributions.

Debate on the motion commenced on Tuesday with members of Mr Johnson's family attending the debate as guests in the President's gallery. Members acknowledged that Mr Johnson's career had been inspired by the great loves of his life: Pauline his wife of 55 years and their family, the Australia Labor Party, and the Catholic Church.

Members from all sides of the House spoke of Mr Johnson's tireless work ethic, respect for the Parliament and in particular the value he placed on the role of the Legislative Council as a House of Review. While

acknowledged as a true Labor Party stalwart, it was recognised that as President he put party considerations aside in his approach to the role and was widely respected by all sides for his impartiality. Many members spoke to Mr Johnson's sense of humour and genuine interest in people, no matter what walk of life or from which side of politics they came.

Following a reflective debate that marked Mr Johnson's significant contribution to the state of New South Wales, the motion was agreed to.

Ministerial statement – Ken Matthews interim report on water management and compliance

On Tuesday 12 September 2017, the Minister for Primary Industries, Regional Water and Trade and Industry, Mr Blair, made a ministerial statement concerning the release of the interim report by Mr Ken Matthews AO on water management and compliance in New South Wales. The report was commissioned by the Minister following the broadcasting on 24 July of a Four Corners investigation into water management. The report found that aspects of water-related compliance and enforcement arrangements have been ineffective and made a comprehensive set of recommendations for reform. Mr Blair stated that he has accepted the principles set out in the recommendations which will form the basis of a submission he will take to Cabinet. He also outlined other aspects of the Government's response including exploring the creation of a new Natural Resource Asset Division to separate investigation and enforcement from industry development and water distribution, reviewing cases of potential breaches of water licence conditions, and installing water meters for large volume users across the State within 12 months.

Mr Veitch, on behalf of the Opposition, also addressed the House. Mr Veitch argued that while Mr Matthews had made a valiant effort to get to the bottom of the issue he had been hamstrung by limitations on his inquiry including the inability to investigate the minister or his predecessors or guarantee protection to whistleblowers. The Opposition called for a full judicial inquiry with the powers of the royal commission to thoroughly examine the matter. Mr Veitch also argued that there have been systemic failures within WaterNSW which show disregard for due and proper process, and called on the minister to resign.

Matter of public importance – Ken Matthews interim report on water management and compliance

Standing order 200 provides an opportunity for the House to debate a topical matter with precedence of most other business on the Notice Paper. A member initiates a motion under standing order 200 by giving notice that on the next sitting day he or she will move that a nominated matter of public importance be discussed forthwith. The House must then agree to the matter being discussed in order for a full debate to take place.

On Wednesday 13 September 2017, Mr Buckingham (The Greens) moved according to notice that the House discuss the interim report of Mr Ken Matthews entitled 'Independent investigation into NSW water management and compliance'.

In support of the motion, Mr Buckingham argued that the matter should be discussed because the Government is currently considering applications to have illegal floodwork diversions retrospectively approved, because the Darling River is in a critical condition and is likely to run dry in the coming year despite billions of dollars having been spent, because people in rural and regional New South Wales had lost confidence in the administration of the water portfolio, and because there are many issues still to be resolved following release of the report.

The Minister for Regional Water opposed the motion, noting that he had already addressed the interim report in detail in a statement to the House (see 'Ministerial statement' above), in a press statement, a press

conference and in answers to questions in the House. The minister also outlined measures which the Government is taking in response to the interim report.

The Greens, Opposition and the Animal Justice Party supported the motion for discussion, however the motion was opposed by the Government, Shooters, Fishers and Farmers Party and the Christian Democratic Party and was negatived on division (16:20).

Motion to censure the Minister for Regional Water

On Thursday, Mr Veitch, on behalf of the Leader of the Opposition, moved a motion calling on the House to note the findings of the interim report of Mr Ken Matthews entitled 'Independent investigation into NSW water management and compliance', and that systemic failures of the Department of Industry had occurred under the watch of three National Party Ministers. The motion further called on the House to censure the Minister for Regional Water, Mr Blair, and for the Minister to resign from that portfolio.

In support of the motion Mr Veitch stated that there have been ongoing concerns regarding mismanagement of the Barwon-Darling system for some years, that many questions remain to be answered following the Matthews report, and that people in regional areas do not believe the issue of large scale water theft is being taken seriously by the responsible agency. Mr Veitch acknowledged that censure motions against ministers are rare but noted that a key convention of the Westminster system is that the minister is responsible for his or her department.

Other Opposition members who spoke in support of the motion noted that while there are currently various other investigations in train concerning water management and compliance, including an ICAC inquiry, those investigations do not concern the minister's obligations to his oath of office or the House and do not absolve the House of its responsibility of holding the government to account. Opposition members also raised concerns about various decisions taken during the minister's tenure in office such as the transfer of the compliance unit from the department to the state owned corporation responsible for selling water.

The Greens also supported the motion, noting that even before the Matthews inquiry it had been widely known that there were systemic failings in water management and compliance, which the minister failed to address, and that the minister's behaviour had contravened established standards under the Westminster convention.

The Government opposed the motion, observing that in response to allegations concerning water compliance, the minister had commissioned the Matthews inquiry and had made the report public, had ensured that work had begun to implement the recommendations made in the report, and had made other worthwhile reforms across his portfolio. Government members also noted that Mr Matthews himself had restricted aspects of his investigation to allow ICAC to examine certain matters and argued that the motion was politically motivated. The Christian Democratic Party also opposed the motion, arguing that if concerns remained following the ICAC inquiry, the minister could be called to answer at that time.

The motion was defeated on division (14:20) with the Opposition and Greens supporting the motion and the Government, Christian Democratic Party and Animal Justice Party voting against the censure.

Government business

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

[Parramatta Park Trust Amendment \(Western Sydney Stadium\) Bill 2017](#)

House of origin: Legislative Council

The bill amends the Parramatta Park Trust Act 2001 to enable land to be swapped between the Parramatta Park Trust and Venues NSW in connection with the development of the Western Sydney Stadium, to enable trust lands to be leased for the purposes of an aquatic leisure centre, and for other related purposes.

In speaking to the bill Minister Harwin indicated that the new Western Sydney Stadium will be a world class facility that will boost the local economy and employment. As work on the Stadium has required the demolition of Parramatta pool a new aquatic leisure centre will also be constructed. The amendments proposed by the bill enable the Parramatta Park Trust to enter a 50 year lease for the construction of the aquatic centre, allow certain land to be swapped between agencies for purposes associated with the Stadium, and bring the principal Act into line with other modern legislation governing parklands by removing a requirement to consult with the Treasurer on 50 year leases. The minister also stated that as a result of the land swap there will be extra green space for Parramatta Park and improved access to parklands.

Debate was adjourned for five calendar days.

[Apprenticeship and Traineeship Amendment Bill 2017](#)

House of origin: Legislative Assembly

Disputes in relation to the establishment, transfer, variation or completion of apprenticeships and traineeships are currently heard before the Vocational Training Review Panel (VTRP) The bill abolishes the VTRP and gives the Commissioner for Vocational Training the ability to hear and determine disputes. Further appeals from matters determined by the Commissioner can be heard by the New South Wales Civil and Administrative Tribunal. The bill also establishes additional compliance measures and increased penalties for breaches of the Act.

In his second reading speech, the Parliamentary Secretary (Mr Franklin) argued that the bill would make vocational education and training more responsive to industry needs, and streamline its operation. The Parliamentary Secretary argued that the bill will improve communications between Registered Training Operators (RTOs) and employers of apprentices and trainees by requiring the provision of increased information to employers at certain intervals, as well as better coordination of on-the-job and off-the-job training.

The Christian Democratic Party supported the bill, but noted that there were issues regarding the availability of transport for regional students attending vocational training. The Opposition and The Greens both indicated that they would support the second reading of the bill but their support for the third reading of the bill was dependent on the bill being amended in the committee stage. The Opposition and the Greens both foreshadowed identical amendments that would reverse those parts of the bill that sought to abolish the VTRP.

The second reading of the bill was agreed to.

In committee the Greens moved 23 amendments that sought to retain the VTRP and its functions. The amendments drew the support of the Opposition only and were defeated on division (15:20). The bill was reported without amendment.

The third reading was agreed to on division (21:15) and the bill was returned to the Assembly without amendment.

Public Health Amendment (Review) Bill 2017

House of origin: Legislative Assembly

The bill amends the *Public Health Act 2010* to give effect to the findings of a statutory review of that Act. The bill deals with a range of public health matters including vaccination enrolment requirements in childcare facilities, the control of high-risk diseases, and the regulation of areas and activities that have the potential to affect public health.

In his second reading speech, the Parliamentary Secretary (Mr Farlow) stated that the statutory review of the Act had found that its objectives remained valid but recommended a range of amendments to ensure that the Act can best protect public health. One of the primary objectives of the bill is to increase child vaccination rates. The bill provides that a childcare facility will only be able to enrol a child if provided with evidence that the child is appropriately vaccinated. Other amendments to the Act include: changes to information sharing to improve NSW Health's monitoring and management of the impact of high-risk diseases; authorising public health officers to make a public health order to manage the contacts of persons with high-risk diseases; safeguards on disclosure of HIV-AIDS; and removing the current requirement on persons with a sexually transmitted infection (STI) to notify their sexual partners of their status, instead requiring persons with an STI to take reasonable precautions against the spread of the STI while increasing financial penalties and possible criminal sanctions for failing to do so.

The Opposition broadly supported the bill but did raise concerns regarding the increased penalties applicable to a person with an STI who does not take reasonable precautions against the spread of that STI. With particular reference to HIV-AIDS, the Opposition argued that as an alternative to using prosecution to minimise the spread of STIs, efforts should instead be extended to community education and public health management – a position shared by the Greens.

The Animal Justice Party supported the bill except for the compulsory vaccination of children as a condition for access to child care. The Animal Justice Party argued that as a consequence children would miss out on early education due to the concerns held by their parents. The Greens did not oppose the bill but were also concerned about the approach to increasing vaccination rates and argued that as an alternative to punitive actions, the community should be better informed about the benefits of vaccination.

The Christian Democratic Party held two serious concerns with the bill. Firstly, that it has a negative impact on parents who may have a conscientious objection to the use of vaccines, and, secondly that people have a right to know whether their sexual partner is carrying an STI. To examine these concerns, the Christian Democratic Party moved to refer the bill to Portfolio Committee No. 1 for inquiry and report.

The Christian Democratic Party's amendment to refer the bill to Portfolio Committee No. 1 drew the support of the AJP only and was negated on division (3:33). The second reading was agreed to.

During consideration in committee of the whole, the Opposition successfully moved an amendment to require NSW Health to publish details in its annual report about the conditions to which any public health orders are made.

The bill was reported to the House, read a third time and returned to the Legislative Assembly with an amendment. The Assembly agreed to the amendment.

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

[Gaming Machines Amendment \(Transparency\) Bill 2017 \(Mr Field, Greens\)](#)

House of origin: Legislative Council

The object of the bill is to amend the *Gaming Machines Act 2001* to require the publication at regular intervals of information relating to the operation of gaming machines at each hotel or club containing gaming machines. The bill proposes that information in relation to the address of premises containing gaming machines, along with the number of machines, gaming thresholds for such premises, the total value of all bets made by players of those gaming machines, and total profits from machines at those premises, be made publically available on a monthly basis. The bill also proposes the publication of quarterly information detailing the value of each contribution of gaming machine profits to community development and support initiatives, along with the date, recipient and the category of each such contribution.

In his second reading speech, Mr Field outlined that New South Wales has one of the highest incidence of electronic gaming machines – also known as poker or ‘pokie’ machines – and that each year gaming machine players lose \$8 billion. Mr Field advised his motivation for introducing this legislation is that people who work day-to-day with people suffering from gambling addiction have explained that one of the key barriers to making the case for change is the lack of locally specific information about the losses and social impact. Mr Field emphasised that while New South Wales has similar legislation to other states regarding the collection of data from electronic gaming machines in relation to losses and profits made via each machine, it does not require that information to be made public in the same manner as it is made available in other states.

Debate was adjourned for five calendar days.

[Summary Offences Amendment \(Full-face Coverings Prohibition\) Bill 2017 \(Revd Mr Nile, Christian Democratic Party\)](#)

House of origin: Legislative Council

The object of the bill is to make it an offence for a person, without reasonable excuse, to wear a face covering while in a public place, apart from a church or other place of worship. A face covering is defined as any article that hides the face of a person in a way that conceals their identity. Under the bill, a person's religious or cultural belief does not constitute a reasonable excuse for the purposes of the proposed offence.

In his second reading speech, Revd Mr Nile stated that public safety and security concerns had prompted similar legislation to be moved in many countries and cited examples of the offences and penalties in place overseas. Revd Mr Nile also referred to a ‘last-minute motion last week at the Nationals Party federal conference to ban face coverings’. Revd Mr Nile argued that the wearing of face coverings in public was a serious matter and warranted debate in the House so that all members could have the opportunity to put their views on the parliamentary record.

Debate was adjourned for five calendar days.

Motions

Bravehearts' White Balloon Day (Mr Green, Christian Democratic Party)

The motion calls on the House to note that all children deserve a safe and happy childhood and that Australia has international obligations to ensure the wellbeing of children and to keep them safe from harm. Bravehearts' White Balloon Day is an annual day that raises awareness about protecting children from child sexual assault, and Bravehearts' 21st annual White Balloon Day was held during National Child Protection Week on Friday 8 September 2017. The motion also notes that Bravehearts is a non-government organisation that works to educate, empower and protect Australian children from sexual assault and encourages members to raise awareness about child safety by participating in National Child Protection Week.

In speaking to the motion, Mr Green stated that child sexual abuse spans all races, economic classes and ethnic groups and that the consequences for those subjected to child sexual abuse are often on-going and tragic. Mr Green also noted that in the digital age it is easier than ever for predators to access illegal pictures and videos of children. He stated that despite the best efforts of many jurisdictions and non-government organisations, society still faces challenges in combating online child sexual abuse and exploitation. Other members in speaking to the motion reflected on the valuable work performed by the Royal Commission into Institutional Responses to Child Sexual Abuse and urged all parties to take a bipartisan approach to promoting children's safety and welfare.

Debate 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) Passing of Mrs Dorothy (Dot) Lockwood Mr MacDonald).
- (2) Pam Burridge (Mr Field).
- (3) 2017 Northern Beaches Local Area Command awards ceremony (Mrs Maclaren-Jones).
- (4) Wagga Wagga Rescue Squad (Mrs Maclaren-Jones).
- (5) 22nd annual National Tree Day (Dr Faruqi).
- (6) Park rangers (Dr Faruqi).
- (7) Violence against the Rohingya people (Dr Faruqi).
- (8) 60th anniversary of the Raymond Terrace Soccer Club (Mrs Maclaren-Jones).
- (9) Select Committee on Human Trafficking in New South Wales—Extension of reporting date (Mr Green).
- (10) 2017 Threatened Species Children's Art Competition (Mr Pearson).
- (11) 2017 Central Coast Business Excellence Awards (Mr MacDonald).

Petitions received

Government response

- (1) To a petition presented by Mr Shoebridge on 10 August 2017 concerning the establishment of an additional public high school in Sydney's east – (Honourable Rob Stokes MP, Minister for Education).

Reports tabled

Auditor General: 'Planning and evaluating palliative care services in NSW: NSW Health', August 2017.

Committee activities

Committee membership

Select Committee on Electricity Supply, Demand and Prices in New South Wales: The following nominations for membership of the committee were received:

Government: Mr Franklin, Mr Martin
Opposition: Mr Graham, Mr Searle.

Extension of reporting date

Select Committee on Human Trafficking: The reporting date has been extended to 19 October 2017.

Portfolio Committee No. 4 – Legal Affairs: The reporting date for the committee's inquiry into museums and galleries was extended to 1 March 2018.

Committee reports tabled

Standing Committee on Law and Justice: 'First review of the Dust Diseases scheme', Report No. 61, dated 24 August 2017.

Standing Committee on Law and Justice: 'First review of the Lifetime Care and Support scheme', Report No. 62, dated 24 August 2017.

Committee on Children and Young People: '2017 Review of the Annual Reports of the Advocate for Children and Young People and the Children's Guardian', Report No. 3/56, dated August 2017.

Legislation Review Committee: 'Legislation Review Digest No. 42/56', dated 12 September 2017.

Government response

General Purpose Standing Committee No. 3: Response received to the report entitled 'Inner city public primary school enrolment capacity and

redevelopment of Ultimo Public School', received out of session and authorised to be printed on 15 August 2017.

Standing Committee on Law and Justice: Correspondence received advising that the response to the report entitled 'First review of the workers compensation scheme', which was due on 11 September 2017, will be provided on 11 October 2017.

Inquiry activities

Select Committee on Human Trafficking

The committee has received 28 submissions and held five hearings.

Select Committee on Electricity Supply, Demand and Prices in New South Wales

The closing date for submissions is 16 October 2017. The committee will hold its first hearing in Sydney on 31 October 2017.

Standing Committee on State Development

Inquiry into regional development and a global Sydney

The committee has received 37 submissions and has held hearings in Sydney, Nowra, Orange, the Tweed and Armidale. Further regional visits and hearings will be held in the coming months.

Defence industry in New South Wales

The committee has received 35 submissions and held five public hearings. The committee will hold further regional visits and public hearings in the coming months.

Portfolio Committee No. 2 – Health and Community Services

Inquiry into road tolling

The report is currently being drafted. The committee is expected to report by November 2017.

Portfolio Committee No. 3 – Education

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

The committee has received over 400 submissions and has held seven public hearings, including three regional hearings. The final report is due to be tabled shortly.

Portfolio Committee No. 4 – Legal Affairs

Inquiry into museums and galleries

The committee is considering holding a further hearing. The report is due to be tabled by 1 March 2018.

Emergency services agencies

The committee has received more than 170 submissions to date. The committee will hold its first public hearings on Monday 18 and Friday 22 September 2017.

Fire and emergency services levy

The closing date for submissions is 26 November 2017.

Portfolio Committee No. 5 – Industry and Transport

Inquiry into water augmentation for rural and regional New South Wales

The committee has received 116 submissions and held 10 hearings in Sydney and regional areas. The next hearing will take place in Sydney on 19 September 2017.

Portfolio Committee No. 6 – Planning and Environment

Inquiry into energy from waste technology

The committee received a further nine submissions following the extension of the terms of reference, and anticipates holding another hearing and site visit in October.

Adjournment debate

Tuesday 12 September 2017

Social media data sharing (Mr Amato); Live music venues (Mr Graham); Special religious education (Mr Green); Abortion law reform (Mr Khan); Sporting venues (Ms Voltz); Freedom of religion (Revd Mr Nile).

Wednesday 13 September 2017

Rohingya people genocide (Dr Faruqi); Liddell power station (Mr Searle); Tribute to Ned Mannoun (Mr Mallard); Homelessness (Mr Wong); Early childhood education (Mr Field); Same-Sex marriage (Mr Farlow).

Thursday 14 September 2017

Electricity supply (Dr Phelps); National Parks and Wildlife Service fiftieth anniversary (Ms Sharpe); Electricity supply (Mr Buckingham); North Coast Schools infrastructure program (Mr Franklin); Centenary of ANZAC commemorative service (Ms Voltz); Jewish Holocaust (Revd Mr Nile).

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

House in Review – Budget Estimates supplement

The annual Budget Estimates Inquiry is a key process for government accountability and transparency. Each year government ministers and senior public officials attend public hearings to answer questions about the expenditure, performance and effectiveness of their departments. The inquiry is conducted by the Legislative Council's six Portfolio Committees (PCs) – formerly known as the General Purpose Standing Committees – each of which is responsible for examining specific portfolios. This year the initial round of Budget Estimates hearings was held over seven days, from 31 August to 8 September 2017.



PC 4 Budget Estimates hearing for the Attorney General portfolio

Budget Estimates resolution 2017-2018

The resolution to establish this year's Budget Estimates Inquiry was passed on 21 June 2017. The resolution sets out the dates for the Budget Estimates hearings and the rules under which the inquiry operates. Key features of the resolution include:

- all hearings must be heard in public
- witnesses must be ministers or officers of departments, statutory bodies or corporations
- ministers cannot make opening statements
- members have until 5.00 pm two days following each hearing to lodge supplementary questions
- final reports to be tabled by 15 December 2017.

Features and statistics of this year's inquiry

This year all six PCs resolved, well in advance of the scheduled hearings, that government members would not ask questions, on the proviso that the overall hearing time be reduced accordingly.

Table 1: Statistics for the initial hearings of Budget Estimates since 2012

	2017	2016	2015	2014	2013	2012
Hearings held	24	23	23	23	24	23
Ministers who appeared	24	23	23	23	23	23
Public servant witnesses	144	105	118	125	137	113
Total hearing time	49 hours, 40 minutes	48 hours, 12 minutes	49 hours, 15 minutes	56 hours, 15 minutes	53 hours, 30 minutes	61 hours
Supplementary questions	6,736	4,769	5,452	4,017	3,479	3,289
Hearings without govt. questions	24	23	23	21	19	10

Supplementary questions

This year a total of 6,736 supplementary questions were received following the initial hearings. Answers to supplementary questions are due from 26 September to 4 October 2017.

Supplementary hearings

The week of 3 to 6 October 2017 has been set aside for supplementary hearings. Each of the six PCs has deferred their decisions on whether to hold supplementary hearings.

Budget Estimates website

A transcript of each hearing, as well as the questions on notice and supplementary questions, can be found on the Budget Estimates website: www.parliament.nsw.gov.au/budgetestimates. Once received, the answers will also be available on the website.



PC 1 Budget Estimates hearing for the Treasury, Industrial Relations portfolios