

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



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21 to 23 March 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](http://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](mailto:council@parliament.nsw.gov.au).

### Overview

This week saw a variation to the House's sitting pattern, with the House sitting Monday to Wednesday to accommodate the Easter long weekend. The House considered six government bills and two items of private members' business. One of the bills considered this week, the Biofuels Amendment Bill, led to a particularly heated debate. The debate is discussed in further detail below.

### LC Twitter account

This week saw the Council's Twitter account, @nsw\_upperhouse, reach 1600 followers. The account reliably informs followers about the outcome of items considered each day, key events in committees and the House, and general parliamentary information.

### Government business

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

#### [Biofuels Amendment Bill 2016](#)

House of origin: Legislative Assembly

The Biofuels Act 2007 requires that major petrol retailers and wholesalers ensure that at least 6 per cent of all petrol sold is ethanol blend. The bill, received from the Assembly on Tuesday, extends the categories of retailers who must comply with the minimum ethanol content requirements to include smaller retailers; imposes additional requirements on retailers of petrol or diesel fuel to make petrol-ethanol blend available for sale; requires the Independent Pricing and Regulatory Tribunal (IPART) to regulate the wholesale price of ethanol; and provides a clearer regime for exemptions from the Biofuels Act 2007.

Speaking in support of the bill, the Parliamentary Secretary argued that without incentive or compulsion, oil companies are unlikely to supplant their sale of hydrocarbons with a cheaper agricultural product such as ethanol, and a strong and enforceable mandate was needed. Some members of the Government expressed concerns about the bill. In particular, the Government Whip indicated that in view of his belief that the bill would criminalise petrol station owners for the purchasing decisions of their customers, which in his view stood in contrast to the core free market values of the Liberal Party, he would resign as Government Whip effective immediately.

The Opposition was generally supportive of the bill, but noted that a key element of what defines a retailer who must comply with minimum biofuel requirements would be prescribed by regulation, not the bill, and

highlighted the lack of clarity in this arrangement. The Opposition also noted the impact of forcing smaller operators to convert their tanks to enable the storage of ethanol.

The Shooters and Fishers Party (SFP) and Christian Democratic Party (CDP) supported the bill, hopeful that the bill would create an economically viable market for E10 fuel consumption, and were supportive of the potential benefits for regional workers connected to the ethanol production industry. The Greens strongly opposed the bill, arguing that it was crony capitalism at work, giving undue power and control to the ethanol industry. The second reading was agreed to (Division 29:6), the Greens, Animal Justice Party (AJP) and Government Whip voting against the bill.

In committee of the whole, amendments were proposed by the Government, the SFP and the Greens. The Government successfully moved amendments that sought to clarify the basis on which fuel retailers can seek exemption from the new provisions and to require the minister to review the Act before June 2019.

The SFP amendments were not successful. Several of the amendments sought to remove provision for the Expert Panel, which advises the minister on matters concerning exemptions from the operation of minimum biofuel requirements and the operation of the Act. The SFP also sought to remove provision for the Independent Pricing and Regulatory Tribunal (IPART) to determine and review the wholesale price of ethanol; to require signs stating that E10 contains locally sourced ethanol and that the signs be clearly visible at service stations; and to set the threshold for which retailers come under the Act rather than leave the threshold for determination via a regulation.

The Greens amendments sought to make it a defence to a prosecution for failing to comply with the minimum biofuel requirements where the defendant could prove that it was not economically viable to comply with the requirements due to the capital costs associated with compliance. The amendments were not successful.

The committee reported the bill with amendments. The bill was read a third time and returned to the Assembly for consideration of the Council's amendments. The Assembly agreed to the amendments on Wednesday.

### **[Electricity Supply Amendment \(Advanced Meters\) Bill 2016](#)**

House of origin: Legislative Council

The second reading having been agreed on 16 March 2016 (see [previous House in Review](#)), the bill was considered in committee of the whole on Monday. The Opposition moved five amendments which sought to provide for the net billing of customers who generate their own electricity but do not have a smart meter; ensure that meters can only be installed by accredited service providers; reinstate the provision allowing distributors to attach seals to a customer's electrical installation; and to provide for customers not to be charged for the installation of smart meters. The amendments were unsuccessful and the bill was subsequently reported to the House without amendment, read a third time and forwarded to the Legislative Assembly for concurrence. On Wednesday, the House received a message advising that the Assembly had agreed to the bill without amendment.

### **[Fair Trading Amendment \(Fuel Price Transparency\) Bill 2016](#)**

House of origin: Legislative Assembly

The bill amends the Fair Trading Act 1987 to provide for the establishment of a scheme for the publication of service station fuel prices on an ongoing and up to date basis and to make a consequential amendment to the Fair Trading Regulation 2012. The bill facilitates the introduction of an online portal that will require service station operators to report their current fuel prices, and update them in real-time so that consumers will be able to easily compare fuel prices at different service stations.

During the second reading debate, the Opposition and Greens did not oppose the bill, however noted concerns relating to the duplication of fuel price information from a similar Federal fuel pricing scheme to commence in May 2016 and time lags caused by technological faults. Members of the Opposition and Christian Democratic Party agreed that this bill would bring transparency to the fuel retail market and that this was long overdue.

In committee of the whole, the Opposition moved an amendment making it an offence to sell fuel at a price that is higher than has been notified. The amendment was negatived (Division 16/20) and the bill was read a third time and returned to the Assembly without amendment.

### **Fines Amendment Bill 2016**

House of origin: Legislative Council

The bill was introduced on Tuesday. The bill amends various Acts as a consequence of provisions for electronic nomination of drivers who incurred a fine introduced in 2015; extends the time for nomination to 90 days, and ensures that a fine, including related demerit points, is borne by the actual offender where the penalty has been paid prior to nomination being made. The bill also contains measures to strengthen the fines enforcement process, including removal of provisions that previously prevented the Office of State Revenue from taking civil action to enforce the payment of fines for up to 6 months from the date a licence was suspended.

The Parliamentary Secretary speaking in support of the bill stated that the bill will provide for a faster, simpler, fairer and more effective system for processing penalty notices and enforcing unpaid fines. Debate on the bill was adjourned for 5 calendar days.

### **Assisted Reproductive Technology Amendment Bill 2016**

House of origin: Legislative Assembly

The bill, debated on Tuesday, allows persons who were born from assisted reproductive technology (ART) treatment using donor gametes prior to 2010 to obtain non-identifying information about the donor, and requires ART providers to retain records for 75 years. The bill also provides an exemption to a limit that currently prevents a woman from using a donated gamete if 5 other women have already given birth to offspring from the same donor, if the woman or the spouse of the woman is to be the parent of a child born using a gamete from the same donor. The bill additionally creates a new offence for destruction or falsification of any ART records; allows gametes and embryos created using donated gametes to be stored for 15 years; allows participants in a private ART arrangement to include information on the central register to be accessible by children born from such arrangements; and allows for parents to have the option to include a declaration on a birth certificate that a child was donor-conceived. The bill has been informed by the statutory review of the Assisted Reproductive Technology Act 2007 and [two inquiries by the parliamentary Committee on Law and Safety](#) into donor conception.

In speaking to the bill, the Parliamentary Secretary acknowledged that ART can be a contentious area and not all stakeholders would be satisfied with all the changes in the bill, but the Government had aimed to strike a fair balance between the interests of donor conceived individuals, women undergoing ART treatment and donors.

The Opposition flagged their intention to move amendments to the bill, arguing that while the bill makes positive progress, it did not go as far as originally promised as clinics would not be forced to hand over information about anonymous pre-2010 donors, and the bill does not seek to establish a central agency to oversee pre-2010 records. Members spoke to the difficulties faced by donor-conceived children who face confusion in dealing with health problems, identity issues and clarifying their relationships to others.

The CDP supported the bill, noting that the amendments would enable donor-conceived children to obtain non-identifying information about the donor, without compromising the anonymity of the donor.

The CDP also noted that the Committee on Law and Safety had not supported allowing pre-2010 donor-conceived individuals to access information on the central register without the donor's consent.

The Greens spoke in support of the provisions that would create a new offence for the destruction of falsification of records, arguing that this was absolutely essential, but stated that they would support Labor's amendments to establish a centralised repository for records. The Greens foreshadowed amendments to the bill to bring the NSW arrangements into line with Victoria and allow donor-conceived children to access both identifying and non-identifying information about pre-2010 donors. The second reading was agreed to on the voices.

During committee of the whole, the committee agreed to a CDP amendment which will require the Minister to commence a review of the new provisions made by the bill in 12 months.

The Opposition moved an amendment that sought to require all pre-2010 records to be provided to the NSW Minister of Health, for the information to be held in a central register, and for new disclosure arrangements. The amendment was not successful. The Greens moved amendments to bring forward the commencement of provisions relating to the retention and transfer of pre-2010 records, and to require that records be kept in perpetuity rather than 75 years, and allow donor-conceived children access to identifying information about pre-2010 donors, however the amendments were not successful.

The committee reported the bill with the CDP amendment. The bill was read a third time and returned to the Assembly with the amendment. The Assembly agreed to the amendment on Wednesday.

### [Crimes \(Domestic and Personal Violence\) Amendment \(National Domestic Violence Orders Recognition\) Bill 2016](#)

House of origin: Legislative Assembly

In December 2015, the Council of Australian Governments (COAG) agreed to legislate to ensure that apprehended domestic violence orders, or DVOs in some other states, will be automatically recognised and enforceable in any State or Territory in Australia. The introduction of the bill on Tuesday saw NSW become the first jurisdiction to introduce the new measures. The Government stated that the bill will ensure that domestic violence perpetrators are held accountable across the country.

The bill was unanimously supported by members, however the Opposition and the Greens noted concerns raised by the Women's Legal Centre that the requirement in the bill for a nexus to still exist between NSW and an offence, in order for a person to be found guilty of an offence under NSW law, could exclude technology-facilitated stalking and abuse where it takes place across different jurisdictions. The Opposition and Greens also spoke to the need to ensure that other support services, such as the NSW Police Force, court advocacy services and refuge services, were adequately resourced in order to ensure that the state's commitment to reducing domestic violence was realised. The CDP stated that the fight against domestic violence would benefit from the prohibition of violent pornography, which may condone cruelty against women, and by people taking a more proactive role by intervening when they encountered people who were experiencing domestic violence in everyday situations.

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

*Bill:*

### **Climate Change Bill 2015 (Ms Barham, The Greens)**

Debate resumed from 20 October 2015 (see [previous House in Review](#)). The Greens and the Animal Justice Party spoke in support of the bill noting its key objects which are to set targets to reduce greenhouse gas emissions with a target of zero net greenhouse gas emissions by 2040, facilitate government development of strategies, policies and programs to meet targets and to adapt to the effects of climate change. Although the Opposition supported many of the elements within the bill, they did not support the emissions reduction targets set out in the bill. The Government opposed the bill stating that it duplicated existing work of the Government, seeks to impose binding targets on New South Wales over which the state has limited control and would disrupt the economic stability of the state.

Ms Sharpe moved an amendment to the second reading motion to refer the bill to General Purpose Standing Committee No. 5 for inquiry and report. The question on the amendment was negatived (Division 9/22), as was the question on the second reading of the bill (Division 5/26).

*Motion:*

### **Sheep mulesing (Mr Pearson, Animal Justice Party)**

Debate resumed from 10 March 2016 (see [previous House in Review](#)). Members from various parties spoke to their own personal experience of shearing and working in the sheep and wool industry, discussing the great difficulties posed by fly-strike and the significant developments made by the industry in dealing with animal welfare and moving towards the eradication of flystrike. During debate the Government moved an amendment to the motion which congratulated the industry in general for investing in the development and promotion of pain relief solutions and the breeding of fly-strike resistant sheep, and congratulated fashion designers who are encouraging wool growers in these practices.

The Government's amendment was agreed to, causing the amendment originally moved by Mr Pearson to the motion the previous week to lapse. The motion, as amended, was agreed to on the voices.

*Motions taken as formal business*

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

- (1) Mr Colin Allen, International Disability Alliance (Ms Cotsis).
- (2) Soroptimist International annual Sydney Education Grants (Dr Faruqi).
- (3) Strategic Energy Projects (Mr Buckingham).
- (4) Ageing in place (Ms Barham).
- (5) Older Women's Network forum (Mr Wong).
- (6) International Day for the Elimination of Racial Discrimination (Dr Faruqi).
- (7) Greek Independence Day celebration (Mr Clarke).
- (8) Church of Jesus Christ of Latter Day Saints Community Leaders Reception (Mr Clarke).
- (9) Annual greenhouse gas emissions (Ms Barham)



- (10) Hellenic studies awards (Mrs Houssos).
- (11) Zakynthian cultural and heritage exhibition (Mrs Houssos).
- (12) United States Congress resolution regarding Middle East genocide (Revd Mr Nile).
- (13) Australian-Egyptian Council forum annual gala dinner (Mr Clarke).
- (14) Parliamentary Friends of Reconciliation (Mr Khan).
- (15) Paris Agreement on climate change (Ms Barham).
- (16) Low carbon entrepreneur prize (Ms Barham)
- (17) Advocate for older people (Ms Barham).

### Petitions received

- (1) Ban greyhound racing – 3088 signatures (presented Dr Faruqi on behalf of Dr Kaye).

### Committee activities

#### *Committee references*

**General Purpose Standing Committee No. 5:** The Chair informed the House that on 22 March 2016, the committee resolved to inquire into the augmentation of water supply for rural and regional New South Wales.

#### *Committee report tabled*

**Legislation Review Committee:** ‘Legislation Review Digest No. 16/56’, dated 21 March 2016.

#### *Committee reports debated*

**Social Issues Committee:** The House concluded the take-note debate on Report No. 50 entitled ‘Service coordination in communities with high social needs’, dated December 2015.

### Inquiry activities

#### **Select Committee on the Legislative Council committee system**

The committee has received 11 submissions to date and intends to hold its first hearing in April 2016.

#### **General Purpose Standing Committee No. 2**

##### *Inquiry into elder abuse in New South Wales*

The committee has now received a total of 120 submissions and held its final hearing on 18 March 2016. The report is expected to be tabled mid-year.

#### **General Purpose Standing Committee No. 3**

##### *Inquiry into reparations for the stolen generations in New South Wales*

The closing date for submissions has been extended until 31 March 2016. The committee had its 10th and final hearing on 22 March and is in the process of drafting its report, which it expects to table mid-year.

#### **Law and Justice Committee**

##### *Inquiry into the security classification and management of inmates sentenced to life imprisonment*

The committee’s report is expected to be tabled in early April 2016.

#### **State Development Committee**

##### *Inquiry into economic development in Aboriginal communities*

The committee held its first hearing in Sydney on 26 February 2016, and conducted its first site visit to various sites on the Central Coast on Monday 14 March. The committee’s next site visit and hearing will be to the Dubbo/Brewarrina region on 5-6 April. Visits are also scheduled for Tamworth and the South Coast in coming months to take evidence in relation to both this inquiry and the inquiry into regional planning processes in NSW.

##### *Inquiry into regional planning processes in NSW*

The committee held its first hearing in Sydney on 11 March 2016 and will conduct regional hearings over the coming months (see above).

### Reports tabled

#### **Independent Commission Against Corruption:**

Investigation into the conduct of a Mine Subsidence Board District Manager, dated March 2016.

**Ombudsman:** Oversight of the Public Interest Disclosures Act 1994—Annual Report 2014-2015, dated March 2016.

**Small Business Commissioner:** annual report of the Small Business Commissioner for the year ended 31 December 2015.

## Adjournment debate

### Monday 21 March 2016

Volunteering (Mr Franklin); Essential Energy Enterprise Agreement (Mr Searle); Racial discrimination (Dr Faruqi); Sydney central business district lockout laws (Mr Mallard); Tribute to John Posnakidis (Mr Mookhey); Manildra Group (Mr Green).

### Tuesday 22 March 2016

Greek Independence Day (Mrs Houssos); Coalmining (Mr Buckingham); Refugees (Ms Cusack); TAFE apprenticeships (Mr Donnelly); Persecution of Coptic Christians (Revd Mr Nile); Lawrence Hargrave (Mr Colless).

### Wednesday 23 March 2016

Senate voting reform (Mr Brown); Alcohol lockout laws (Mr Mallard); Murray Darling Basin (Mr Buckingham); Essential Energy Enterprise Agreement (Mr Searle); Religious discrimination (Mr Farlow); Koala protection (Ms Sharpe).

## 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](mailto:stephen.frappell@parliament.nsw.gov.au).

All responses will be kept strictly confidential.



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