



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION
NO. 6/2021: 9 – 26 NOVEMBER 2021

November 2021				
M	T	W	T	F
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26

This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant Standing Orders are noted.

SITTINGS

Hybrid Sittings

As in the October sitting weeks, the Assembly met in a hybrid fashion during the November sitting weeks, with some Members participating remotely via video link and others participating in person in the Chamber. On 9 November 2021, the House agreed to a motion which set out, amongst other things, how Members might participate remotely during November.

The House agreed to continue the practice followed in October for General Business Notices of Motion and Community Recognition Statements to only be submitted electronically, and for adjournment at the end of Private Members' Statements each day.

Votes and Proceedings: 9/11/2021, pp. 1339-1341.
SO 97 (Routine of business).

Friday Sittings

On 12 October 2021, the House had agreed to a motion to sit on three Fridays in November: the 12nd, 19th and 26th. With the addition of these three Fridays, the House would sit for a total of 12 days over the course of the three November weeks. The last time the House sat on a Friday was 25 November 2011.

SO 98, which sets out the routine of business for Friday sittings, is currently suspended by Sessional Order. Consequently, the House had to agree to a routine of business for the Friday sittings in November, and on 21 October a routine was agreed to for 12 and 19 November, and on 25 November a routine was agreed to for 26 November.

The House resolved to allocate the majority of Friday sitting days to consideration of Private Members' Bills – with the aim of allowing enough time to conclude proceedings on the *Voluntary Assisted Dying Bill 2021* before the House rose for the year. The routine of business also provided for the giving of Ministerial statements and the tabling of papers.

Votes and Proceedings: 12/10/2021, pp. 1265-6, 21/10/2021, pp. 1332-3, 25/11/2021, pp. 1482-3 and 1511-12.
SO 98 (Friday sittings)

Jubilee Room Sitting

On Friday 19 November 2021, the Legislative Assembly sat and held proceedings in the Jubilee Room at Parliament House. Records indicate that this was the first occasion that the Legislative Assembly had met outside of the Chamber since the Assembly's establishment in 1856.

On 19 November, the sitting commenced at 9.30 am in the Chamber. However technical difficulties arose which impacted the broadcast and Hansard recording of the proceedings from the Chamber. At 10.03 am, the Temporary Speaker (Mr Gurmesh Singh MP) indicated that, following consultation with Members, the House would momentarily adjourn. The Temporary Speaker then left the Chair, with proceedings to resume on the ringing of a long bell.

When the House resumed proceedings at 11.37 am, it met in the Jubilee Room at Parliament House, instead of in the Chamber. Mr Speaker took the Chair and made the following statement to the House:

We are experiencing another historic first. To my knowledge, this is the first time, certainly in any of our lifetimes, that the Parliament of New South Wales will meet outside the Chamber. I advise that the House has been experiencing technical difficulties with the broadcast and also with the feed to Hansard. I have consulted with the Government, the Opposition, crossbench representatives and relevant officeholders, and the decision has been made to resume proceedings in the Jubilee Room of the New South Wales Parliament on the ringing of one long bell. The bell has rung, which will enable the House to proceed with debate as soon as possible with the capacity to broadcast and for Hansard.

For the benefit of members, I confirm that there is no difficulty in conducting proceedings outside of the Chamber, in that the proclamation by which the Governor calls the House to meet at the opening of the session calls the Legislative Assembly and the Legislative Council together to assemble for the dispatch of business within the premises known as Parliament House. Relocating proceedings within the Parliament building is a decision that the House can authorise.

The authorisation of the House was then given effect by the Leader of the House, the Hon. Mark Speakman MP, moving a suspension of Standing and Sessional Orders to enable the House to conduct proceedings in the Jubilee Room until technical difficulties in the Chamber were resolved. The motion was agreed to on the voices. The House then agreed to a further motion which extended the sitting day by an hour and shortened the lunch break, providing further time for consideration of the *Voluntary Assisted Dying Bill 2021* (the main item of business for the day). The House resumed proceedings in the Chamber after the lunch break.

Votes and Proceedings: 19/11/2021, p. 1427-1429.
SO 365 (Suspension of Standing Orders).
Hansard (Proof): 19/11/2021, pp. 5-6.

BUSINESS

Standing Orders of the Legislative Assembly

On 24 November 2021, the House agreed, on the motion of the Leader of the House by leave, to make a number of amendments to the Standing Orders, including formalising 62 temporary Sessional Orders into permanent Standing Orders.

The amendments were recommended to the House by the Standing Orders and Procedure Committee, and formalise much of the Assembly's current practice and procedure. In addition to the adoption of Sessional Orders as Standing Orders some other minor changes were agreed to, including to the routine of business (the House is to now adjourn after Private Members' Statements rather than after Community Recognition Statements), and to divisions to reflect the new 'walk through' process.

Votes and Proceedings: 24/11/2021, pp. 1456 - 1475.

Hansard (Proof): 24/11/2021, p. 69.

Procedural note:

Section 15 of the *Constitution Act 1902* (NSW) provides that Standing Orders of the Legislative Assembly must be approved by the Governor. As a consequence, the amendments made to the Standing Orders on 24 November must be laid before and approved by the Governor before they can be enforced by the House.

SO 364 allows the House to, from time to time, adopt Sessional Orders. A Sessional Order is a temporary rule of the House which modifies or replaces a Standing Order, generally for the duration of a parliamentary session. Unlike Standing Orders, Sessional Orders do not need to be approved by the Governor to be in force.

Divisions – October and November 2021 Sitting Period

During the October and November 2021 sitting period, the number of Members recorded as voting in divisions was smaller than usual, with large numbers of pairs recorded (reflecting arrangements between the major parties to limit the number of Members coming into contact with each other in the Chamber in the context of the broader COVID-19 situation facing NSW). Exceptions to this were the divisions relating to the *Workers Compensation Amendment Bill 2021* on 24 November; and the *Voluntary Assisted Dying Bill 2021* on 25 and 26 November, where large numbers of Members voted.

During the October and November sitting period, there were 46 divisions in total. Of those, one related to the *Workers' Compensation Amendment Bill 2021*; and 25 related to the *Voluntary Assisted Dying Bill 2021*.

For the remaining 20 divisions that did not relate to the *Workers Compensation Amendment Bill 2021* or the *Voluntary Assisted Dying Bill 2021* (and noting that there are 93 Members of the Legislative Assembly in total):

- between 23 and 41 Members voted on any given question; and
- where pairs were recorded for these divisions, there were between 23 to 28 pairs for any given question (i.e. between 46 and 56 Members were the subject of a pairing arrangement).

In contrast, for the division on 24 November relating to the *Workers Compensation Amendment Bill 2021* on the question "That this Bill be now read a second time", 91 Members voted and there were no pairs recorded. During the second reading debate, the Manager of Opposition Business indicated

that as the Opposition was strongly opposed to the Bill, pairing arrangements would not be applied for that item of business.

Regarding the *Voluntary Assisted Dying Bill 2021*, Government and Opposition MPs were allowed a 'conscience vote' by their parties. A conscience vote occurs where a Member of Parliament can vote in any way he or she likes instead of along party lines.¹ As conscience votes were allowed for the Bill, pairs were not a factor.

89 Members voted in the division on the question that the *Voluntary Assisted Dying Bill 2021* be now read a second time; and 84 Members voted in the division on the question that the Bill be now read a third time.

A number of Members also requested that the Bill be considered in detail, and during the Consideration in Detail stage of the Bill, there were 23 divisions, with between 52 and 71 Members voting on any given question. The consideration of the Bill is discussed in more detail later in this Digest.

Votes and Proceedings: 13/10/2021, pp. 1297-8; 14/10/2021, pp. 1303-5; 21/10/2021, pp. 1334-5; 9/11/21, pp. 1348-9; 10/11/21, pp. 1363-4 and pp. 1366-70; 12/11/2021, pp. 1379-80; 16/11/2021, pp. 1395-6; 17/11/2021, pp. 1404-10; 18/11/2021, pp. 1423-4; 23/11/2021, pp. 1438-9; 24/11/2021, pp. 1476-80; 25/11/2021, pp. 1488-99 and pp. 1506-11; 26/11/2021, pp. 1514-5, pp. 1517-8 and pp. 1523-34.

SO 173 (Call for divisions), 174 (Procedure for divisions), 180 (Procedure for division) and 186 (Pairs). *Hansard (Proof): 17/11/2021, pp. 80-6; 24/11/2021, p. 130; 25/11/2021, pp.78-84, pp. 86-7, pp. 89-93, pp. 96-100, pp. 109-16; 26/11/2021, p. 1, p. 5, pp. 10-12, pp. 18-21, pp. 23-4, pp. 26-8, pp. 30-3.*

Procedural note:

A division is a method of taking a vote on a question, in which Members are physically counted. When a motion is subject to a vote, the Speaker will state the question e.g. "That the Bill be now read a second time" and the Speaker will say "Those in favour say aye, to the contrary no" and declare the result based on the voices.² Under SO 173, a division is called when the Speaker's expressed opinion as to whether the "ayes" or "noes" have it is challenged. Under SO 180, once a division has been called, Members present themselves in the Chamber to be counted by the tellers – ayes to the right and noes to the left of the Chair.

Pairing is an informal arrangement between parties so that two Members from opposing sides of the House do not vote in the House for a particular division. This means that one or both can be absent and it will not affect the result of the vote.³ As pairing is an informal arrangement it is not provided for in the Standing Orders other than SO 186, which provides that Members pairing on any division will be recorded on the tellers' lists and printed in the Votes and Proceedings and Hansard.

Motion regarding ensuring procurement free from products of modern slavery

On 25 November 2021, the Assembly agreed to a motion requiring the Parliament's Department of Parliamentary Services to take reasonable steps to ensure goods and services procured by and for the Houses of Parliament are not the product of modern slavery. The motion, moved by the Leader of the House by leave, also required the Department to report annually on several matters, including a statement of steps taken to ensure procured goods and services were not the product of modern slavery.

¹ [A Short Guide to the Procedures of the Legislative Assembly](#), p79.

² [A Short Guide to the Procedures of the Legislative Assembly](#), p16: See also Standing Order 174.

³ [A Short Guide to the Procedures of the Legislative Assembly](#), p83.

This motion followed the consideration in the previous sitting week of the *Modern Slavery Amendment Bill 2021*, a Government bill originally introduced in the Legislative Council. On 17 November 2021, the Assembly debated the Bill and considered amendments to it in consideration in detail. One amendment removed an item from the Bill that related to procurement by the Parliament of NSW. In debate on that amendment (which was agreed to on the voices), the Member for Vaucluse, the Hon. Gabrielle Upton MP, indicated that 'following consultation with the Presiding Officers, the Government proposes that the intent of the amendment be implemented by concurrent resolutions of the Houses by the time Parliament rises at the end of the year'.

The House's consideration of the amendments to the Bill is discussed in further detail later in this Digest.

Votes and Proceedings: 17/11/2021, pp. 1407 – 1410; 25/11/2021, pp 1487 – 1488.
Hansard (Proof): 17/11/2021, pp 79 – 86;

BILLS

Voluntary Assisted Dying Bill 2021

The *Voluntary Assisted Dying Bill 2021* was introduced by the Member for Sydney, Mr Alex Greenwich MP, on 14 October 2021. The Bill, a Private Member's Bill, provides for and regulates access to voluntary assisted dying for persons with a terminal illness.

The Bill was co-sponsored by twenty eight Members - Jenny Aitchison MP, Abigail Boyd MLC, Tim Crakanthorp MP, the Hon Anthony D'Adam MLC, Helen Dalton MP, Trish Doyle MP, Lee Evans MP, Cate Faehrmann MLC, Justin Field MLC, the Hon John Graham MLC, Alex Greenwich MP, Jodie Harrison MP, Jo Haylen MP, Sonia Hornery MP, the Hon Emma Hurst MLC, the Hon Trevor Khan MLC, Jenny Leong MP, David Mehan MP, Jamie Parker MP, the Hon Mark Pearson MLC, Greg Piper MP, the Hon Adam Searle MLC, David Shoebridge MLC, Tamara Smith MP, Liesl Tesch AM MP, Kate Washington MP, the Hon Leslie Williams MP, and Felicity Wilson MP.

Government and Opposition Members were given a conscience vote on the Bill.

Following the Bill's introduction on 14 October, there were several other Private Members' Bills listed in front of the *Voluntary Assisted Dying Bill* on the Business Paper – including the *Government Sector Finance Amendment (Government Grants) Bill 2021* and the *Anti-Discrimination Amendment (Religious Vilification) Bill 2021*. The Assembly's Routine of Business provides that Private Member's Bills can only be considered during a ninety minute period on Thursdays.

In November the House agreed to several suspensions of Standing and Sessional Orders to provide for extra time in which to consider Private Members' Bills, including on Fridays as indicated earlier in this Digest. Suspension motions agreed to regarding the *Voluntary Assisted Dying Bill* also prohibited dilatory motions being moved on Friday sitting days (the motions 'that the Member be not further heard'; 'that the Member be now heard'; and 'that the Question now be put' could not be moved).

The second reading debate on the Bill resumed in earnest on 12 November, when the Premier and the Member for Summer Hill gave their respective and respectful opening speeches in opposition to and in favour of the Bill. The second reading debate continued for much of the day on 12 and 19 November, before concluding on 25 November (the second last sitting day of the year), when the House agreed to the second reading of the Bill on division (ayes 53: noes 36). In all, 81 Members contributed to the second reading debate over three days.

Several members had requested that the Bill be considered in detail, and consideration in detail commenced on the afternoon of 25 November, following the agreement to the second reading. 170 proposed amendments were circulated for consideration.

As consideration in detail progressed, and with a division being called for on most occasions when the question on an amendment was put, the House agreed to shorten the time for the conduct of divisions.

Consideration in detail continued until 11.20 pm. The House then agreed to a suspension of Standing and Sessional Orders which provided that, at 1.30 pm on Friday 26 November (the final sitting day for the year), all remaining questions on circulated amendments would be put forthwith without debate, and at the conclusion of consideration in detail, the third reading was to be moved without further debate. This motion had the effect of essentially establishing a time by which the House's consideration of the Bill was to be finalised.

Consideration in detail resumed the next day at 10.00 am and concluded before the cut-off time, at 1.07 pm. Of the 170 circulated amendments, 111 amendments were moved, with one amendment ruled out of order and 46 amendments agreed to.

After the conclusion of the consideration in detail stage on 26 November, the House agreed to the third reading of the Bill (on division ayes 52: noes 32), and with that vote the Bill passed the Legislative Assembly. The Bill was then sent to the Council for consideration. In total, approximately 24 hours were spent in consideration of the Bill in the Assembly.

Further information on the [Bill](#) can be found on the Parliament's website.

Votes and Proceedings: 21/10/2021, p. 1333; 10/11/2021, p. 1361-2; 12/11/2021, p. 1381, p. 1385; 18/11/2021, pp. 1422-3; 19/11/2021, p. 1427-9; 25/11/2021, pp. 1482-3, p. 1489, p. 1506, pp. 1511-3; 26/11/2021, pp. 1514-34.

SO 180 (Procedure for division), 188 (Introduction of bills), 203 (Proceedings after the second reading), 210 (Amendments relevant), 217 (Reconsideration in whole or part), 218 (Bill passes) and 365 (Suspension of Standing Orders).

Law Enforcement Conduct Commission Amendment Bill 2021

The *Law Enforcement Conduct Commission Amendment Bill 2021* was a Private Member's Bill initially introduced in the Legislative Council on 12 November 2021 by the Hon. Adam Searle MLC. The intent of the Bill was to increase the cap on the number of years a commissioner of the Law Enforcement Conduct Commission can hold office.

The Bill passed the Council on 18 November 2021 and it was sent to the Assembly for concurrence. Later that day, the Deputy Speaker advised the House that the Speaker had received correspondence from Mr Searle indicating that the Member for Summer Hill, Ms Jo Haylen MP, would have carriage of the Bill in the Assembly. The Deputy Speaker set down the second reading of the Bill as an order of the day for tomorrow.

On 23 November 2021, being a Tuesday (a day on which Government Business takes precedence), the Leader of the House moved that Standing and Sessional Orders be suspended to permit consideration that day of General Business Order of the Day (for Bills) No. 7, relating to the *Law Enforcement Conduct Commission Amendment Bill 2021*. The question was put and passed on the voices. Ms Haylen consequently gave her second reading speech that day and the Bill passed through all remaining stages on the same day, with the Bill therefore passing the Parliament.

During the second reading debate, the Member for Vacluse indicated that the Government supported the Bill as it corrected an inconsistency within the *Law Enforcement Conduct Commission Amendment (Commissioners) Act 2021*, and was consistent with the will of the Parliament during the debate on that Act.

The Bill was assented to by the Governor on 29 November 2021.

Votes and Proceedings: 18/11/2021, pp. 1424-5; and 23/11/2021, pp. 1434-5.

Hansard (Proof): 23/11/2021 p. 8.

SO 97 (Routine of business), 105 (Precedence and lapsing of General Business) and 229 (Procedure in the Assembly for Council Bills).

Procedural note:

SO 229 sets out the procedure in the Assembly for Council Bills. It provides that a message forwarding a Private Member's Bill from the Council cannot be reported until the Speaker is advised which Assembly Member will have carriage of the Bill. Once reported, the Bill will be set down as an Order of the Day.

SO 229 also provides that a motion "That this Bill be now read a second time" may be moved forthwith or made an Order of the Day for a later time – *except in the case of a Private Member's Bill which can only be moved when it is called upon in accordance with the Routine of Business.*

SO 97 provides that the House is to conduct its business according to a particular set routine. On Tuesdays, Government Business takes place at specified junctures in the Routine of Business, but there is no provision for General Business (including Private Members' Bills) to take place. In contrast, on Thursdays there is provision for General Business, including up to 90 minutes for General Business Orders of the Day for Bills.

SO 105 also provides that General Business Notices of Motions and Orders of the Day shall retain their relative place on the Business Paper and are to be considered in the order in which they are given or set down.

Given the above, Standing and Sessional Orders had to be suspended to permit the *Law Enforcement Conduct Commission Amendment Bill 2021* to be considered on 23 November 2021, a Tuesday.

Amendments to bills from the Legislative Council

During the November sitting weeks, a number of Government bills originating in the Legislative Council were amended by the Assembly before being returned to the Council.

For example, on 17 November 2021, the *Modern Slavery Amendment Bill 2021* was forwarded from the Council. Once the House had agreed to the second reading of the Bill (on the voices), the Hon. Gabrielle Upton MP, on behalf of the Premier, moved a number of amendments to the Bill in consideration in detail. After three divisions, the House passed the amendments and the Bill was returned to the Council with a schedule of the amendments, and a message requesting the Council's concurrence. On 19 November, the Council agreed with the amendments and passed the Bill as amended by the Assembly. The Bill was assented to by the Governor on 29 November 2021.

Votes and Proceedings: 17/11/2021, pp. 1407 - 1410.

Hansard (Proof): 17/11/2021, pp 79 - 86.

SO 231 (Amendment of Council Bills) and 232 (Schedule of Amendments).

Procedural note:

The procedures for considering bills from the Legislative Council are contained in SOs 229 – 236. Where consideration in detail does occur on Council bills, it follows the same procedure used for bills from the Assembly. On the passing of any amendments, the Standing Orders state that a schedule of amendments signed by the Clerk shall be sent to the Council, together with a message requesting concurrence.

Greater Sydney Parklands Legislation Amendment (Substratum) Bill

On 23 November 2021, the Leader of the House moved a motion to suspend Standing Orders so that a new bill, the *Greater Sydney Parklands Legislation Amendment (Substratum) Bill 2021*, could be introduced and pass through all stages on the same day. Usually, unless it is urgent, after a bill's introduction it is placed on the Business Paper as an Order of the Day, with debate to continue no less than five clear days later.

The House agreed to the suspension of Standing Orders on the voices, and the Bill was subsequently introduced by the Minister for Transport and Roads, the Hon. Rob Stokes MP. Mr Stokes referenced the Bill's link to an earlier bill (the *Greater Sydney Parklands Trust Bill 2021*) that the Assembly had already agreed to, but which had been referred by the Council to a committee for inquiry by 21 February 2022:

The purpose of the *Greater Sydney Parklands Legislation Amendment (Substratum) Bill 2021* is to extract those parts of the *Greater Sydney Parklands Trust Bill 2021*, debated last week in this place, that are necessary for the acquisition of substratum—that is, the underlying layer beneath the surface of the ground—at Callan Park and Parramatta Park to enable construction of the Sydney Metro West. The remaining provisions of the *Greater Sydney Parklands Trust Bill* have been referred to a committee by the other place.

The second and third readings of the Bill were quickly agreed to by the House, and it was then forwarded to the Council. Later the same day, the Council also passed the Bill, and it was forwarded to the Governor for her assent.

Votes and Proceedings: 23/11/2021, p. 1434.

SO 188 (Introduction of Bills) and 365 (Suspension of Standing Orders)

STAFF

Appointment of Clerk-Assistant

On 11 November 2021, the Speaker advised the House of the permanent appointment, on 3 November, of Simon Johnston as Clerk-Assistant, House and Procedure.

Votes and Proceedings: 11/11/2021, p. 1374.