

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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21 to 23 June 2016*

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

Overview

The final sitting week for the autumn sitting period was notable for the tabling of General Purpose Standing Committee No. 3's report on reparations for the Stolen Generations in New South Wales, the debate on which took place on Thursday in the presence of members of the Stolen Generations who had participated in the inquiry. The week also saw the tabling of the annual budget estimates and consideration of the Appropriations Bills, and the President tabled correspondence between the Presiding Officers and the Premier in relation to the 2014 reports of the Council and Assembly Privileges Committees.

The House now stands adjourned for the winter recess until Tuesday 9 August 2016.

Messages of condolence

The President informed the House that on behalf of members of the Legislative Council and the people of New South Wales, he had sent messages of condolence to the Consul General of the United States of America following the Orlando nightclub shootings, and to the Speaker of the House of Commons following the murder of Ms Jo Cox, MP. Members and officers stood in their place as a mark of respect.

Reparations for the Stolen Generations

On Thursday 23 June 2016 Ms Barham (Chair) tabled General Purpose Standing Committee No. 3's report on the inquiry into reparations for the Stolen Generations in New South Wales. Members and officers stood immediately following the tabling as a mark of respect to honour members of the Stolen Generations. Ms Barham then proceeded to move and speak to the motion to take note of the report. Stolen Generation survivors and their family members, along with other inquiry participants, were present in the President's and public gallery during the debate. The Hon Leslie Williams, Minister for Aboriginal Affairs, was also present in the President's gallery during the debate.

Ms Barham spoke about the need for reparations to be provided to those who were stolen from their families under the government's past forcible removal policies and practices. She acknowledged the devastating impacts that arose as a result of Aboriginal children being stolen, including the loss of culture, identity and connection to Country. Ms Barham emphasised the need for various measures of reparation, such as monetary payments,



healing and memorials, to be provided urgently, given survivors are ageing.

Members of the committee all spoke in support of the motion, and emphasised the unanimous agreement reached by committee members on the report's 35 recommendations. The motion was adjourned to the next sitting day when committee debates take precedence.

Following the debate, Stolen Generation survivors and other inquiry participants, including Minister Williams, joined the committee in a morning tea to mark the conclusion of an important and unique inquiry (pictured).

NSW Budget 2016-2017

On Tuesday 21 June, the Treasurer tabled the 2016-2017 Budget papers in the Legislative Assembly. Later that day, Mr Gay tabled the Budget papers in the Legislative Council and moved a motion for a 'take note' debate, which will resume during the Spring sittings. The Appropriation Bill and cognates, the Appropriation (Parliament) Bill and the State Revenue Legislation Amendment (Budget Measures) Bill, were received and passed by the Council on Thursday 23 June 2016.

The annual inquiry into the budget estimates by the Legislative Council's general purpose standing committees will commence in August.

Developments in matters relating to the 2014 reports of the Privileges Committees

On Wednesday 22 June, the President tabled correspondence from the Premier advising the Government agrees in principle with the recommendations of the 2014 reports of the Legislative Council and Legislative Assembly Privileges Committees into recommendations of the ICAC regarding the Code of Code for Members, the interest disclosure regime and a parliamentary investigator. However, the letter went on to note that the recommendations differed in some respects and requested that the two Houses work together to provide a single set of recommendations. The correspondence also indicated that the government is open to considering other reforms that may assist in improving the integrity, transparency or operations of the Parliament.

The President further tabled correspondence written in reply with Madam Speaker, agreeing to the Premier's proposal and outlining their proposed approach. The correspondence notes that in view of the likelihood that recommendations arising from the two committees will necessitate legislative change, the Presiding Officers were of the view that the opportunity should also be taken to address and resolve a number of related areas of uncertainty in respect to parliamentary privilege, in particular the absence of comprehensive legislation concerning the application of privilege in NSW, together with legislation clarifying employment arrangements for parliamentary staff, along the lines of the Parliamentary Service Act 1999 (Cth).

Vacant seat in the Council

On Tuesday 21 June, the President announced to the House the receipt, from the Registry of Birth, Deaths and Marriages, of an extract certificate recording the death of Dr John Kaye on 2 May 2016, and that an entry recording his death has been made in the Register of Members of the Legislative Council. The President also informed the House that, in accordance with the provisions of section 22G (8) of the *Constitution Act 1902*, His Excellency the Governor has been notified that the seat of Dr John Kaye had become vacant prior to the expiration of his term of service, which notification had been acknowledged by His Excellency.

As a result of this process, the procedure for filling the vacancy in the seat previously held by Dr Kaye may now commence.

Government business

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

[Crimes \(Domestic and Personal Violence\) Amendment \(Review\) Bill 2016](#)

House of origin: Legislative Assembly

The bill implements recommendations of the statutory reviews of the *Crimes (Domestic and Personal Violence) Act 2007* (which makes provision for apprehended domestic violence orders [ADVOs]) and chapter 9A of the *Coroners Act 2009* (which provides for the appointment and operations of the Domestic Violence Death Review Team [DVDRT]) by expanding the availability of ADVOs and giving courts and police greater flexibility in the ADVO process.

The bill recognises the broad range of physical and non-physical behaviours that can constitute domestic violence, expands the definition of a relationship to include two people who have had a relationship with the same person, expands the membership of the DVDRT, alters reporting requirements for the DVDRT from one to two years and introduces plain English ADVOs. The Parliamentary Secretary argued that this last reform will ensure that domestic violence perpetrators no longer have an excuse for not understanding or complying with ADVOs and victims will better understand their protections. The bill also amends the objects of the *Crimes (Domestic and Personal Violence) Act* to acknowledge the particular impact of domestic violence on: Indigenous persons; those from culturally and linguistically diverse backgrounds; those from the gay, lesbian, bisexual, transgender and intersex communities; older persons; and persons with disabilities.

The Opposition did not oppose the bill but stated that it would move amendments concerning reporting by the DVDRT, arguing that it would send the wrong message to reduce reporting of violence from annually to biennially.

The Greens supported the bill, particularly endorsing the bill's acknowledgement of the impact of domestic violence on a diversity of groups within the community. However, the Greens indicated that they would support the Opposition's amendments to maintain the current reporting requirements, and move an additional amendment to require ongoing statutory reviews relating to the work of the DVDRT.

The Christian Democratic Party supported the bill, speaking to the devastating and ongoing impacts of domestic violence for victims and their families and the bill's achievements in recognising the diversity of victims and implementing the solutions recommended by the recent reviews. The second reading was agreed to.

During committee of the whole, the Opposition moved their foreshadowed amendment to require that the DVDRT continue to report on an annual basis, however the amendment was defeated. The Greens moved an amendment to require a statutory review each three to five years of Chapter 9A of the *Coroners Act 2009* as it relates to the DVDRT and to require a report on the review to be tabled in both Houses. That amendment was also defeated and the bill was reported without amendment.

The third reading was agreed to and the bill was returned to the Assembly without amendment.

[Local Government and Elections Legislation Amendment \(Integrity\) Bill 2016](#)

House of origin: Legislative Assembly

The bill applies the aggregated caps on donations that apply at the State level to local government elections, being \$5800 per annum for registered parties and groups and \$2500 per annum for candidates, elected members and third party campaigners. The bill also disqualifies persons who have been convicted of an offence carrying a sentence of five or more years imprisonment from holding office in a council for seven years after their conviction; repeals s 448 (g) of the *Local Government Act 1993* which exempted council officials from the obligation to disclose a pecuniary interest in proposals relating to environmental planning

instruments in certain circumstances; and permits the Chief Executive of the Office of Local Government to apply to the Supreme Court to order that a councillor who has participated in the consideration of a matter in which he or she had a pecuniary interest (in breach of obligations under the *Local Government Act*) must pay to the council an amount equivalent to the financial benefit received as a result of the council's decision in relation to the matter in question, or that the council hold a security for that amount.

The minister stated that the measures contained in the bill have been put forward in response to recent events at Auburn, Hurstville and other councils, and signalled that the measures will form part of a broader package of amendments designed to restore community confidence in local councils and provide ongoing assurance in the integrity of councils and the decisions they make.

The Opposition did not oppose the bill, but argued that the caps being applied to donations should also be applied to expenditure in respect of local government elections and flagged that they would move an amendment to that effect in committee. The Opposition also flagged that they would move amendments to ensure that real estate agents and close associates of property developers would be disqualified from running for local government. The Greens did not oppose the bill, but described the measures as “a pimple on a pumpkin” compared to the challenge of ensuring that the local council elections scheduled for September 2016 were conducted with integrity. The Greens indicated that they would also move an amendment to ensure that real estate agents and close associates of property developers would be disqualified from running for local government. The Christian Democratic Party (CDP) supported the bill, stating that the measures would give independent candidates a fair go and were a balanced response to particularly complex issues. The second reading of the bill was agreed to.

During consideration in committee of the whole, the Opposition moved an amendment to apply caps on expenditure for local government elections, and the Greens moved an amendment to disqualify real estate agents and close associates of property developer from local councils. Both amendments were defeated. The bill was reported without amendment.

On the third reading of the bill being moved, the minister tabled a letter from the NSW Electoral Commission addressed to the Premier, referred to during debate in committee on the Opposition's amendment. The letter stated that an officer of the Commission had advised the Department of Premier and Cabinet that it would be impossible to successfully implement expenditure caps at this point in the electoral calendar as the necessary changes could not be made in the short period between the passage of the bill and the date of commencement. The third reading was agreed to and the bill was returned to the Assembly without amendment.

[Point to Point Transport \(Taxis and Hire Vehicles\) Bill 2016](#)

House of origin: Legislative Assembly

The Point to Point Transport (Taxis and Hire Vehicles) Bill 2016 represents the second stage of the implementation of reforms arising from the Point to Point in Transport Taskforce, the first allowing rideshare drivers to provide services legally so long as they meet certain safety requirements, having been implemented in December 2015. The bill establishes a new regulatory framework for the point to point transport industry and creates two authorised entities: providers of taxi services, and providers of booking services, with rank and hail work remaining the sole domain of taxi services. The new system will apply to services with 12 or fewer seats, but will not apply to free, community or courtesy transport services.

The bill also creates a dedicated regulator, the Commissioner for Point to Point Transport, and provides for the establishment of a Taxis and Hire Vehicles Industries Assistance Panel to oversee the distribution of assistance funds to the taxi industry, including advising the minister on eligibility. In addition, in order to fund the assistance package, the bill permits a short-term passenger service levy of \$1 to be applied on all trips for up to five years. It will be at the service provider's discretion whether or how to pass the charge

on to customers. The minister stated that the bill will give the industry even greater flexibility in meeting customer demand while ensuring safety standards are maintained.

The Opposition did not oppose the bill, observing that they called for a regulatory framework that recognised ridesharing services one year ago. However, the Opposition foreshadowed that they would move amendments in committee to address a number of concerns they had with the provisions of the bill.

The Greens supported the bill, arguing that it does not make any sense to have point to point services operating outside the law. However, the Greens questioned the sufficiency of the compensation package proposed, the absence of a requirement for maximum fare limits to apply to booking services, provisions for disability access on ridesharing services and whether the legislation would ensure that corporations seeking authorisation to provide services be restricted to Australian entities within the purview of Australian law. The Christian Democratic Party supported the bill, observing that the legislation would remove a great deal of the uncertainty that the taxi industry has been subject to and put to rest many of the concerns expressed by taxi drivers and taxi owners. The second reading of the bill was agreed to.

During consideration in committee, the Opposition moved 16 amendments that sought to alter the membership of the transitional assistance panel to include a union driver representative, ensure minimum working conditions for rideshare drivers, guide the use of ministerial discretion and funding assistance and provide for closer scrutiny and review of the adjustment package. The amendments were defeated and the bill was reported without amendment.

The third reading was agreed to and the bill was returned to the Legislative Assembly without amendment.

[Marine Legislation Amendment Bill 2016](#)

House of origin: Legislative Council

Debate resumed from 31 May 2016 ([see previous House in Review](#) for an outline Minister's second reading speech explaining the purpose of the bill). The Opposition spoke in support of the bill noting that it aims to improve the enforcement of maritime rules and regulations and introduces new provisions aligned with existing road safety legislation covering dangerous and menacing hoon behaviour, camera recording and detection of speeding, drug and alcohol testing and penalties and disqualification periods.

The Christian Democratic Party also supported the bill stating that the bill goes a long way towards addressing serious issues.

The Greens did not oppose the bill, but raised concerns relating to random drug testing, stating that the New South Wales mobile drug testing regime does not adequately test for impairment or intoxication, but only the presence of certain chemicals.

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

Private members' business

Note: Private members' business is business introduced by members of the House other than Government ministers. There are two types of private members' business: private members' bills and private members' motions.

Bill

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

Debate resumed from 2 June 2016 (see [previous House in Review](#) for previous debate).

Government members continued to argue that the bill would breach the terms of the free trade agreements that successive Australian governments have signed with other countries to eliminate tariffs and other restrictions on trade between countries. It was also suggested that the bill was effectively “corporate welfare” and efforts should instead be focused on boosting the performance of business and industries. In contrast, an Opposition member pointed to the centrality of the steel industry to the Australian economy and the risks that a flailing steel industry would pose to unemployment, particularly in Wollongong.

Debate on the bill was interrupted by sessional order.

Motions taken as formal business

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

- (1) Climate change and global temperature (Ms Barham).
- (2) Residential aged care (Ms Barham).
- (3) Berrima District Annual Sports Awards (Mr Amato).
- (4) NSW Kids in Need (Mr Amato).
- (5) Touching Base (Dr Faruqi).
- (6) Bomber Command Commemorative Day (Mr Donnelly).
- (7) Australian women in support of women in Nauru report (Dr Faruqi).
- (8) Marine impacts of climate change (Ms Barham).
- (9) Climate change risk (Ms Barham).
- (10) Orlando Tragedy (Mr Mallard).
- (11) Ms Jo Cox MP (Mrs Houssos).
- (12) General Purpose Standing Committee No. 3–Take Note (Ms Barham).
- (13) Lebanese Muslim Association Iftar dinner (Mrs Houssos).
- (14) Australian Middle East Media (Mr Clarke).
- (15) Arab Council Australia Strategic Plan (Mr Clarke).
- (16) Humane Society International Australia Award (Mr Clarke).
- (17) Independence Day of Israel (Mr Clarke).
- (18) Dionysios Solomos Awards (Mr Clarke).
- (19) Mrs Shubha Kumar (Mr Clarke).
- (20) Commemoration of Yom Hashoah (Mr Clarke).
- (21) Indian Support Centre (Mr Clarke).
- (22) Federation of Indian Associations of New South Wales (Mr Clarke).
- (23) Assyrian New Year (Mr Clarke).
- (24) 2016 Festival of Holi (Mr Clarke).
- (25) Lamborghini Club Australia (Mr Clarke).
- (26) Australian Gynaecological Cancer Foundation fundraising event (Mr Clarke).

Orders for papers

Note: The Council has a common law power to order the Government to produce State papers.

Orders made

- (1) **Budget 2016-2017 (Mr Searle):** The order requires documents relating to the 2016-2017 budget. The motion was agreed to as formal business. Due: 14 July 2016.
- (2) **Budget finances 2016-2017 (Mr Searle):** The order requires advice, briefing papers and electorate reports relating to the 2016-2017 budget. The motion was agreed to as formal business. Due: 14 July 2016.

Petitions received

- (1) National Partnership Agreement on Skills Reform – 832 signatures (presented by Mr Shoebridge).
- (2) TAFE Funding – 819 signatures (presented by Mr Veitch).
- (3) Job cuts at Wauchope Station – 8,310 signatures (presented by Mrs Houssos).

Mr Shoebridge also tabled, by leave, various papers and petitions comprising 10,226 signatures in support of campaigns regarding the Parramatta Female Factory site.

Responses received

- (1) CBD and South East Light Rail (Hon Andrew Constance MP, Minister for Transport and Infrastructure), 7 June 2016.
- (2) The ending of dolphin captivity in New South Wales (Hon Niall Blair MLC, Minister for Primary Industries and Minister for Lands and Water), 10 June 2016.
- (3) The forced amalgamation of Oberon Council with Bathurst Regional Council (Hon Paul Toole MP, Minister for Local Government), 14 June 2016.
- (4) Abortion law reform in New South Wales (Hon Gabrielle Upton MP, Attorney General), 17 June 2016.

Committee activities

General Purpose Standing Committee No. 5: The Chair informed the House that on 22 June 2016, the committee resolved to inquire into aspects of the evidence to the committee's inquiry into the Wambelong fire.

General Purpose Standing Committee No. 6: On 23 June 2016 the House referred to the committee an inquiry into Crown lands.

Social Issues Committee: The Chair informed the House that on 23 June 2016 the committee resolved to inquire into childhood overweight and obesity.

General Purpose Standing Committee No. 4: The Chair informed the House that on 23 June 2016 the committee resolved to inquire into museums and galleries in New South Wales.

Procedure Committee: On Thursday 23 June 2016 the President informed the House that the committee had resolved to extend the reporting date for its inquiry into young children accompanying members into the House to Thursday 25 August 2016.

Committee reports tabled

Legislation Review Committee: 'Legislation Review Digest No. 20/56', dated 21 June 2016.

General Purpose Standing Committee No. 3: Report No. 34 entitled 'Reparations for the Stolen Generations in NSW: *Unfinished business*', dated June 2016.

Committee on the Ombudsman, Police Integrity Commission and Crime Commission: Report No. 1/56 entitled '2016 Review of the Annual Reports of Oversighted Bodies', dated June 2016.

Committee on the Health Care Complaints Commission: Report No. 1/56 entitled 'Review of the HCCC Annual Reports 2013/14 and 2014/15', dated June 2016.

Joint Standing Committee on Electoral Matters: Report No. 1/56 entitled 'Inquiry into the Final Report of the Expert Panel - Political Donations and the Government's Response', dated June 2016.

General Purpose Standing Committee No. 2: Report No. 44 entitled 'Elder abuse in New South Wales' dated June 2016.

Committee reports debated

Standing Committee on Law and Justice: The House concluded the take note debate on Report No. 57 entitled "Remedies for the serious invasion of privacy in New South Wales", dated March 2016.

Standing Committee on Law and Justice: The House concluded the take note debate on Report No. 58 entitled "Security classifications and management

of inmates sentenced to life imprisonment”, dated April

Inquiry activities

Select Committee on the Legislative Council committee system

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

General Purpose Standing Committee No. 2

Inquiry into elder abuse in New South Wales

The report was tabled on 24 June 2016.

Inquiry into child protection

The closing date for submissions is 3 July 2016. Hearings will commence in August.

General Purpose Standing Committee No. 3

Inquiry into reparations for the stolen generations in New South Wales

The report was tabled in the House on 23 June 2016, and was followed by a one hour debate, with Stolen Generation survivors and inquiry participants present in the gallery to watch proceedings.

General Purpose Standing Committee No. 5

Inquiry into water augmentation for rural and regional New South Wales

The closing date for submissions is 14 August 2016.

Law and Justice Committee

First review into CTP insurance scheme

The committee received 12 submissions and held a public hearing on 17 June 2016.

State Development Committee

Inquiry into economic development in Aboriginal communities

Following hearings and site visits across NSW, the committee will launch a discussion paper on 7 July 2016, seeking further submissions on the questions posed in the paper. The committee is due to table its final report in September.

Inquiry into regional planning processes in NSW

The committee held four hearings in the first half of 2016 and will be conducting a Sydney hearing in

August and regional hearings in Albury and Ballina in September.

Reports tabled

Ombudsman: ‘The consorting law: Report on the operation of Part 3A, Division 7 of the Crimes Act 1900’, dated April 2016.

Adjournment debate

Tuesday 21 June 2016

Broken Hill water supply (Mr Veitch); Liberal democracy (Mr Farlow); Jindal Steel and Power Limited and Ramesh Agrawal (Mr Buckingham); State Budget (Revd Mr Nile); Sugarland theatrical production (Mr Franklin); Great Lakes College (Mrs Houssos).

Wednesday 22 June 2016

Sexual abuse of women (Mr Donnelly); Marriage equality (Mr Pearson); Medicare and Australian health care system (Dr Phelps); State Budget and Canterbury infrastructure (Ms Cotsis); Local government amalgamations (Mr Shoebridge); Constitution Education Fund Australia (Mrs Maclaren-Jones).

Thursday 23 June 2016

Royal Botanic Garden and Domain Wishing Tree (Mr Amato); Local government elections (Mr Primrose); State Budget and economic management (Mr Pearce); National Indigenous Human Rights Award recipients (Mr Moselmane); Biodiversity (Ms Barham).

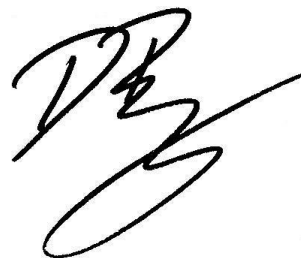
Feedback on *House in Review*

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