

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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*Sitting period
13 to 15 September 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

This week the Council's newest member, Mr Justin Field (The Greens), took his seat in the chamber and gave his first speech. The House debated four government bills which canvassed the electronic issue of fines, the regulatory framework for the security industry, fire trial management and the regulation of the scrap metal industry.

The House debated one bill and three motions standing in the name of private members, and agreed to a reference to the Procedure Committee to consider a suite of new procedures to enhance the operation of Question Time in the Council. The House also trialled a new procedure for the 'take note' of a document, a procedure frequently utilised for the consideration of committee reports under SO 226 but, for the first time since the adoption of the 2004 standing orders, used to take note of a report of the Auditor-General.

This week's edition of *House in Review* includes an addendum summarising the recent budget estimates process undertaken by the six general purpose standing committees between 29 August and 2 September 2016. This year, the six committees collectively undertook 23 hearings at which 105 ministers and senior public servants appeared to answer questions over a cumulative period of 48 hours.

The House now stands adjourned until Tuesday 20 September 2016.

New member sworn

Under s 12 of the *Constitution Act 1902*, a member of either House may not sit or vote in the House to which they have been elected until they have taken the pledge of loyalty or oath of allegiance before the Governor. Following from the election of Mr Justin Field to fill the vacancy caused by Dr John Kaye (The Greens) (see [previous House in Review](#)), on Tuesday 13 September 2016, the President informed the House that Mr Justin Robert Field had presented himself to the Governor and took the pledge of loyalty on Monday 29 August 2016 (this enabled Mr Field to participate in the budget estimates process). The President further informed the House that the Governor had forwarded the pledge of loyalty signed by Mr Field to the Clerk and Mr Field then signed the roll of the House and took his seat in the Chamber.

Mr Field gave his first speech later that day during the 'take note' debate on General Purpose Standing Committee No. 3's report on reparations for the Stolen Generations in NSW.

New procedure for the take note of a tabled paper

This week, the House utilised a new procedure that enables members to move a 'take note' debate on a tabled document. While the practice of moving a take note motion to consider a document is a long-

standing practice of the Council, provision for consideration of a document was first formalised in the standing orders in 2004. An amendment agreed to by the House in 2015 further clarified the procedure by providing for debate of one hour on such a motion.

Mr Veitch (Labor Party) utilised the procedure for the purpose of moving a take note debate on a Performance Audit report of the Auditor-General regarding the sale and lease of Crown land. In speaking to the motion, Mr Veitch stated that he had utilised the procedure because it was vital that the House, as elected representatives of the people of NSW, respond to the findings made by the Auditor-General, which was highly critical of the manner in which the Department of Industry – Lands had been managing the sale and leasing of Crown land. Following contributions from several other members, the motion to take note of the report was agreed to.

Variations to the rules for questions – a new reference to the Procedure Committee

On Wednesday 14 September 2016, the House agreed to refer three motions seeking to vary the rules for questions to the Procedure Committee for inquiry and report. The motions, moved by Mr Buckingham (The Greens), propose to establish a new procedure for a member to move a ‘take note’ debate on the answers given to questions that day; move Question Time from 2.30 pm to 12.00 pm on Wednesdays and Thursdays (to avoid Question Time in the Council coinciding with the Question Time in the Assembly); and require that answers to questions be ‘directly relevant’ (inspired by a similar requirement recently implemented in the Federal Parliament). The committee is expected to report in 2017.

Order for papers – Greyhound welfare – further order

In September 2015, the House agreed to an order for the production of documents concerning greyhound welfare from Greyhound Racing NSW. In response, the General Counsel of the Department of Premier and Cabinet advised that Greyhound Racing NSW does not represent the Crown, being an independent statutory body, thus was not subject to direction or control on behalf of the Government. No further return to the order was received.

On 14 September 2016, the House agreed to a further order for the production of documents concerning greyhound welfare. The resolution asserted ‘that Greyhound Racing NSW is obliged to comply with an order for the production of papers to the Legislative Council’. However, the resolution also acknowledges that following from the recent enactment of the *Greyhound Racing Prohibition Act 2016*, s 27 of that Act authorises the Minister for Racing to require Greyhound Racing NSW to produce any specified records to the minister and make those records publicly available. In view of the new provision, the resolution calls on the Minister for Racing to obtain the documents previously requested by the Council from Greyhound Racing NSW in 2015, and provide those documents to the Council. A return is required within 28 days, being 12 October 2016.

Government business

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

[Fines Amendment \(Electronic Penalty Notices\) Bill 2016](#)

House of origin: Legislative Assembly

The bill amends the Fines Act 1996 by enabling the NSW Police Force and other authorised agencies to issue electronic infringement notices to recipients who are aged sixteen or above and who agree to be issued with the fine electronically. The bill also modernises the language of the Act.

Members did not oppose the bill, stating that the bill would allow the NSW Police Force to operate more efficiently and cut costs associated with the paper-based system. However, given the nature of an electronic process, the Opposition expressed concerns about a possible increase in fraudulent notices and new cybercrimes. The Greens anticipated more issuance of and fewer challenges to penalty notices as a result of

a simplified process and were concerned how they might affect socially and financially disadvantaged persons who cannot meet the fines. The Christian Democratic Party supported the bill.

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

Security Industry Amendment (Private Investigators) Bill 2016

House of origin: Legislative Assembly

The bill transfers the regulation of the private investigation industry as a security activity to the Security Industry Act 1997, transferring the oversight of the industry from Fair Trading to the NSW Police Force, while the regulation of commercial agents will remain under Fair Trading. Speaking in support of the bill, the Parliamentary Secretary stated that private investigation activities are better placed under the Security Industry Act 1997 as they may pose a level of risk to the public due to their intrusive nature, particularly in the case of surveillance activities, and should be subject to the same robust regulatory regime as other security functions. The Parliamentary Secretary also observed that the change will bring the NSW regulatory framework into line with most other Australian jurisdictions.

The Opposition did not oppose the bill, acknowledging that the bill reflected recommendations made by the Legislative Assembly Legal Affairs Committee. The Opposition stated that enhanced regulation and accountability of the industry is welcome given the inherent privacy and integrity risks of the work of investigators who intrusively inquire into the private personal and business dealings of other. The Christian Democratic Party supported the bill, stating that the change will provide a more secure and uniform approach to the protection of all parties involved in what is a high risk industry and make it easier to identify where a private investigator has engaged in fraud, harassment or other unethical conduct.

The Greens did not oppose the bill, but expressed concern regarding the number of industries that have recently been moved under the oversight of the NSW Police Force. The Greens also voiced their concerns that private investigators are prone to abuse their powers, particularly in the area of covert surveillance. The Greens advised that they would move amendments during the committee stage to enable the Privacy Commissioner to receive and respond to complaints regarding intrusive surveillance by private investigators. The second reading of the bill was agreed to.

Following the second reading, the Greens sought to provide the committee of the whole with the power to consider an amendment to establish a complaint mechanism by moving an 'instruction' to the committee. Without the instruction, the committee would be unable to consider the amendment as it was outside the leave – that is, the long title – of the bill. The Greens argued that it was vital for the committee to have the power to consider the amendment to ensure that people subject to aggressive covert surveillance activities have recourse to the Privacy Commissioner. However, the instruction to the committee of the whole was not supported, therefore the amendment was not considered in committee of the whole.

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

Rural Fires Amendment (Fire Trails) Bill 2016

House of origin: Legislative Assembly

The bill amends the Rural Fires Act 1997 to provide a system for the establishment, maintenance and protection of fire trails for the purpose of preventing, fighting, managing or containing bush fires.

The Parliamentary Secretary stated that the bill increases fire safety for the residents of New South Wales and reduces the likelihood of bushfire-related death, injury and property damage.

The Opposition opposed the bill, expressing concerns about the financial implications arising from construction and maintenance of fire trails. The Opposition moved an amendment to refer the bill to General Purpose Standing Committee 6 for inquiry and report to further consider those issues. The Greens

raised concerns about the operations of the bill, and supported the Opposition's proposal to refer the bill to a committee for further inquiry. The Christian Democratic Party supported the bill and commended the Government on the commitment to improve fire trails in NSW. The Shooters, Fishers and Farmers Party supported the bill in principle. The question on the Opposition amendment was negatived on division (Ayes: 16 / Noes: 20) and the bill was read a second time.

During consideration in committee of the whole the Greens moved an amendment to require the Bushfire Co-ordinating Committee to consult with the Bushfire Management Committee prior to amending a fire access and fire trail plan. The amendment was defeated on division (Ayes: 16 / Noes: 20) and the bill was reported from committee without amendment.

The third reading was agreed to on division (Ayes: 20 / Noes: 15) and the bill was returned to the Assembly without amendment.

[Scrap Metal Industry Bill 2016](#)

House of origin: Legislative Assembly

The bill provides for the regulation of the scrap metal industry in New South Wales, in particular, the activity of scrap metal dealers. The Parliamentary Secretary advised that the bill is intended to prevent the theft of scrap metal, including cars, hot water systems, and copper from railway infrastructure and plumbing infrastructure by prohibiting scrap metal dealers from paying cash for scrap metal; requiring scrap metal dealers to keep and maintain records of transactions for buying scrap metal, including details of the person selling the scrap metal; and providing powers of entry and inspection for police officers.

The Opposition did not oppose the bill, noting that it will ultimately provide greater transparency, accountability and oversight throughout the scrap metal industry, however the Opposition questioned the circumstances of waste operators who also handle scrap metal, as the bill makes it an offence to pay for scrap metal. The Christian Democratic Party (CDP) did not oppose the bill, arguing that the regulation of the industry is needed because of the consistent and effortless theft that has taken place over many years. The Greens did not oppose the bill, but raised concerns that the NSW Police Force is increasingly taking on an industry regulation role. In response to this concern, the Parliamentary Secretary advised that the powers given to police are not for the purpose of regulating small businesses in the scrap metal industry, rather, they are intended to provide police with the tools to catch criminals who are stealing metal from building sites and elsewhere. The second reading was agreed to.

During consideration in committee of the whole, the Greens moved two amendments seeking restrictions on police power to enter premises without warrant. Both 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.

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

Alcoholic Beverages Advertising Prohibition Bill 2015 (Revd Mr Nile, Christian Democratic Party)

Debate resumed from 10 September 2015 (see [previous House in Review](#) for an outline of the mover's speech explaining the purpose of the bill, and contributions from the Opposition and the CDP).

A member of the Government backbench, Dr Phelps questioned the need for the bill, observing that the consumption of alcohol and street violence was at an historic low and teenagers are drinking less than at any other time in Australia's history, while the benefits of alcohol, particularly for cardiovascular disease,

are being ignored. Dr Phelps pointed to the importance of personal freedom and choice and argued that if the Government were to support a full prohibition on advertising of alcoholic beverages, NSW would entrench itself as a 'nanny state', given that the Government has already restricted the times, locations and formats in which such advertising can be presented.

Debate was adjourned until next sitting day.

Motions

Sub-continental community in NSW (Mr Primrose, Labor Party)

Debate resumed from 17 March 2016 (see [previous House in Review](#)).

Members continued to speak to the important contribution that members of the sub-continental community have made, are making and will make into the future. Some members who themselves were of sub-continental heritage acknowledged the experience of their own family members who had built families, businesses, served in the Australian armed forces and worked in professions that sought to assist others. Other members acknowledged the work of friends and constituents of sub-continental heritage and the positive role that community cultural festivals such as Deepavali, Ganeshotsava and Parramasala play in joining members of the sub-continental community with the broader NSW and Australian community. A number of members expressed concern about comments made the previous day by Senator Pauline Hanson during her first speech in the Australian Senate. The motion was agreed to unanimously.

Schizophrenia Awareness Week (Mr Farlow, Liberal Party)

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

Members noted that statistics indicate that approximately one per cent of the population is affected by schizophrenia, but that the disease is widely misunderstood in the community and that there are many myths about the disease. Members also acknowledged the tragic history of mental health treatment, including that of schizophrenia, with those suffering mental health illnesses locked up in asylums or psychiatric hospitals and removed from the community. Many of those institutions, such as Callan Park, Rozelle, which operated from 1874-1914, stand as a stark reminder of the practices of early mental health treatment.

Members also noted the significant work that organisations such as the Schizophrenia Research Institute is doing to understand the causes and possible treatments for schizophrenia, and applauded the work of Schizophrenia Fellowship of NSW, a non-government body working in the field of mental illness, dedicated to providing support and information to those affected with mental illness and their carers. Members encouraged the community to support people affected by mental illness and the organisations, both government and non-government, that care for them. The motion was agreed to.

Select committee on the CBD and South East Light Rail project (Dr Faruqi, The Greens)

The motion seeks to establish a select committee to inquire into and report on the CBD and South East Light Rail project. Speaking in support of the motion, Dr Faruqi stated that it was imperative that the Parliament inquire into the \$2.1 billion project as a matter of urgency as it is causing significant disruption to the city and will reconfigure traffic and transport services in the CBD and inner south-eastern suburbs of the city. Dr Faruqi argued that while the Greens support light rail, the project has been plagued by errors, misjudgements and broader problems that reflect poor planning and a lack of consultation with the community.

Debate was interrupted by sessional order and set down for resumption next sitting day.

Motions taken as formal business

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

- (1) Belmore Boys High School Trade Training Centre (Ms Cotsis).
- (2) Hurstville Chamber of Commerce (Mr Moselmane).
- (3) Battle for Australia Commemoration Service (Mr Donnelly).
- (4) Taree Police Citizens Youth Club (Mrs Houssos).
- (5) Multicultural Health Week (Ms Cotsis).
- (6) Ms Irene Doutney (Mr Shoebridge).
- (7) NewSpace building, University of Newcastle (Mr MacDonald).

Orders for papers

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

Order made

- (1) **Greyhound welfare – Further order (Dr Faruqi):** The order requires documents relating to greyhound welfare from Minister for Racing. The motion was agreed to as formal business. Due: 12 October 2016.

Return to order

- (1) **Government's advertising campaign on the greyhound racing industry:** received 8 September 2016 (four boxes public documents, two boxes privileged documents).

Petitions received

- (1) TAFE Funding – 1,240 signatures (presented Ms Cotsis).

Committee activities

Committee membership

The following changes to committee membership were reported:

Standing Committee on Law and Justice:

Mr Khan in place of Mrs Taylor.

Standing Committee on Social Issues: Mr Farlow in place of Mrs Taylor as Chair.

General Purpose Standing Committee No. 4:

Mr Khan in place of Mrs Taylor.

General Purpose Standing Committee No. 6:

Mrs Taylor in place of Mr Farlow.

Committee on Children and Young People:

Mr Franklin in place of Mrs Taylor.

Committee on the Independent Commission Against Corruption: Mr Provest in place of Mr Marshall.

Committee reports tabled

Legislation Review Committee: 'Legislation Review Digest No. 24/56', dated 13 September 2016.

Joint Standing Committee on the Office of the Valuer General: Report No. 1/56 entitled 'Report on the tenth general meeting with the Valuer General', dated September 2016.

Joint Standing Committee on Children and Young People: Report No. 1/56 entitled 'Review of the 2015 Annual Report of the Advocate for Children and Young People', dated September 2016.

Committee reports debated

General Purpose Standing Committee No. 3: The House continued the take note debate on Report No. 34 entitled 'Reparations for the Stolen Generations in New South Wales', dated June 2016.

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

General Purpose Standing Committee No. 2: The House concluded the take note debate on Report No. 44 entitled 'Elder abuse in New South Wales', dated June 2016.

Standing Committee on Law and Justice: The House continued the take note debate on Report No. 59 entitled 'First Review of the Compulsory Third Party insurance scheme', dated August 2016.

Government response

Standing Committee on Law and Justice: The House received a response to the report entitled 'Remedies for the serious invasion of privacy in New South Wales', tabled 3 March 2016.

Inquiry activities

Select Committee on the Legislative Council committee system

Private roundtable meetings were conducted in May and August to consider options and recommendations for the final report. The committee is expected to report by the end of the year.

Select Committee on Off-Protocol Chemotherapy in New South Wales

The committee will not commence its inquiry until the inquiry under section 122 of the *Health Services Act 1997* releases its findings in relation to the dosing of cancer patients at Western NSW Health District, due to occur on 16 September 2016.

General Purpose Standing Committee No. 2

Inquiry into child protection

The committee has received 130 submissions. It held an Indigenous consultation facilitated by the Law Society of NSW on 8 September and visited the Central Coast Multi-Agency Response Centre in Wyong on 9 September. The committee will hold another two public hearings on 26 and 27 September 2016.

General Purpose Standing Committee No. 3

Inquiry into enrolment capacity in inner city public primary schools

The closing date for submissions is 18 September. Public hearings will be held at Parliament House on 11 and 25 November 2016.

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

The closing date for submissions is 29 January 2017. The committee received a briefing from the Ombudsman's Office on issues relating to the inquiry on 15 September 2016 and intends to commence hearings in February 2017.

General Purpose Standing Committee No. 4

Inquiry into museums and galleries

The committee has received 170 submissions and held two public hearings to date. The committee will undertake a site visit to Lithgow and the Blue Mountains on 23 September and is due to table its report tabled on 24 November 2016.

General Purpose Standing Committee No. 5

Inquiry into water augmentation for rural and regional New South Wales

The committee has received over 90 submissions. The committee will commence inquiry activities on 25 and 26 October in Broken Hill and Menindee Lakes and will hold a public hearing in Sydney on 7 November 2016.

Inquiry into Wambelong fire inquiry evidence

The committee is currently preparing its report.

General Purpose Standing Committee No. 6

Inquiry into Crown land in New South Wales

The committee has received over 350 submissions, conducted seven hearings throughout New South Wales and is due to report by 13 October 2016.

Law and Justice Committee

First review into New South Wales workers compensation scheme

The committee is receiving submissions until 25 September. The committee will hold hearings on 4 and 7 November 2016 and intends to report by February 2017.

State Development Committee

Inquiry into economic development in Aboriginal communities

The committee held a public roundtable on 18 August and is due to table its final report in September 2016.

Inquiry into regional planning processes in NSW

The committee will hold its final hearing on 19 September in Ballina and is expected to report by the end of the year.

Social Issues Committee

Inquiry into childhood overweight and obesity

The committee has received 34 submissions. It held one public hearing on 12 September and is planning further hearings and site visits in October 2016.

Reports tabled

Independent Commission Against Corruption:

'Investigation into NSW Liberal Party electoral funding for the 2011 State election campaign and other matters', August 2016.

Auditor General:

- (1) 'Sale and lease of Crown Land: Department of Industry-Lands', September 2016.

- (2) 'Monitoring food safety practices in retail food businesses: NSW Food Authority', September 2016.

Ombudsman: 'Review of police use of the firearms prohibition order search powers', August 2016.

Adjournment debate

Tuesday 13 September 2016

Commercial fishing industry adjustment program (Mr Green); Racial discrimination (Mr Wong); Biodiversity offsets (Dr Faruqi); Ms Sally Herman (Mr Khan); Local Government elections (Mr Searle); Illicit drug use (Mr Green).

Wednesday 14 September 2016

Aboriginal deaths in custody (Mr Mookhey); Gambling (Mr Field); Northern Rivers region (Mr Franklin); Tribute to Belinda and Josh Groves (Mrs Houssos); Same-sex marriage (Revd Mr Nile); Foreign investment in agriculture (Mr MacDonald).

Thursday 15 September 2016

The 3801 Steam Locomotive (Mr Amato); Marriage equality (Ms Sharpe); Same-sex marriage plebiscite (Mr Clarke); Local government elections (Mr Primrose); Xenotransplantation (Mr Pearson); Local government elections and The Greens (Mr Shoebridge).

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to

stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.



David Blunt
Clerk of the Parliaments

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 General Purpose Standing Committees (GPSCs), each of which is responsible for examining specific portfolios. This year the initial round of Budget Estimates hearings was held from 29 August to 2 September 2016.



GPSC1 Budget Estimates hearing for the Treasury and Industrial Relations portfolios

Budget Estimates resolution 2016-2017

The resolution to establish this year’s Budget Estimates Inquiry was passed on 1 June 2016. 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:

- hearings to be held between 9.00 am and 6.00 pm each day
- 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 can lodge supplementary questions with the committee secretariat within two days, excluding Saturday and Sunday, following the hearings
- final reports to be tabled by 16 December 2016.



GPSC1 Budget Estimates hearing for the Premier and Western Sydney portfolios

Features and statistics of this year’s inquiry

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

Table 1: Statistics for the initial hearings of Budget Estimates since 2011

	2016	2015	2014	2013	2012	2011
Hearings held	23	23	23	24	23	25
Ministers who appeared	23	23	23	23	23	22
Public servant witnesses	105	118	125	137	113	125
Total hearing time	48 hours, 12 mins	49 hours, 55 mins	56 hours, 15 mins	53 hours 30 mins	61 hours	69 hours, 28 mins
Supplementary questions	4,769	5,452	4,017	3,479	3,289	2,048
Hearings without government questions	23	23	21	19	10	N/A

Supplementary questions

This year a total of 4,769 supplementary questions were received following the initial hearings. Answers to supplementary questions are due from 23 to 28 September 2016.



GPSC2 Budget Estimates hearing for the Roads, Maritime and Freight portfolio

Supplementary hearings

The week of 4 to 7 October 2016 has been set aside for supplementary hearings. Each of the six GPSCs has resolved that decisions on whether to hold supplementary hearings will be deferred until after the receipt of answers to questions.

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.



GPSC4 Budget Estimates hearing for the Justice and Police, Arts and Racing portfolios