

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 56/29

*Sitting period
18 to 20 October 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 sitting week the House considered eight government bills. The House reached the nominated ‘cut-off date’ by which all government bills must be either introduced in the Council or received by the Council from the Assembly in order for them to be debated prior to the summer recess. Under the sessional order, agreed to over successive years, if a bill is received after the nominated cut-off date (usually two sitting weeks prior to the recess), the bill may only progress through all stages if the House agrees to declare the bill an urgent bill. If the House does not consider the bill to be urgent, the resumption of the second reading debate is set down for the first day following the recess. Of the bills considered prior to the cut-off date this week, four remain on the Notice Paper for debate in November.

The House also agreed to the new cut-off dates to apply for the Budget and Spring sittings in 2017. In keeping with previous years, the cut-off for each period will fall two sitting weeks prior to the winter recess for the Budget sittings, and the summer recess for the Spring sittings.

This week also saw the House receive a report of the Procedure Committee in relation to new procedures for members accompanied by young children in the chamber during divisions, and deal with several items of private members business, including two private members’ bills and four motions. The House stands adjourned until Tuesday 8 November 2016.

Young children accompanying members in the chamber

On 23 February 2016, the President referred to the Procedure Committee an inquiry into young children accompanying members into the House. The committee sought to determine whether there was a need for the current exemption from the prohibition of visitors on the floor of the chamber to be broadened, so as to ensure that members who have responsibility for the care of young children are not unduly prevented from fully participating in the business of the House, particularly during divisions.

The committee tabled its report on Thursday 20 October 2016. Having reviewed the current practice of both the Council and other parliamentary jurisdictions, the committee recommended that the House adopt a sessional order to be trialled for the remainder of the current Parliament to provide the President with the discretion to have the vote of a member caring for a child and seated in the President’s gallery counted in a division.

Government business

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

[Waste Avoidance and Resource Recovery \(Container Deposit Scheme\) Bill 2016](#)

House of origin: Legislative Assembly

The bill establishes a container deposit scheme in NSW that will allow people to receive a 10 cent refund when they deliver an eligible beverage container to a collection point, similar to other schemes operating in South Australia and the Northern Territory, and overseas. To this end, the bill places obligations on the suppliers of eligible beverage containers to participate in the scheme and provide the refund. The new scheme will be overseen by a Coordinator and a network of scheme operators, appointed by the Minister for the Environment.

The parliamentary secretary stated that the new scheme aims to encourage people to hold on to empty beverage containers for later redemption rather than discarding them, or encourage others to collect discarded containers, thereby reducing waste and landfill. The scheme was developed in consultation with expert panels, industry groups and community and environmental groups. The parliamentary secretary noted that the National Litter Index states that beverage containers make up the largest proportion of litter volume in NSW, up to 44 per cent, which was almost twice the volume of the next largest category, being take way food containers.

The Opposition supported the bill, arguing that the bill was long overdue and the result of extensive lobbying from community groups over a number of years. However, the Opposition noted that stakeholders had expressed concerns as to the manner in which data collected by the Coordinator about the industry would be protected. The Opposition also argued that there would be benefit to ensuring that collection points are located nearby suppliers, and that the reporting structure should be altered to ensure that information is available quickly and captures the differences in consumption of beverages over summer and winter, and foreshadowed amendments in committee of the whole to that effect. The Greens also supported the bill, pointing to the significant pollution caused by drink containers and acknowledging that many people in the community had campaigned for the scheme for a long time. However, the Greens also stressed the need for collection points to be located near the point of sale, frequent reporting and the inclusions of persons with environmental expertise on the advisory committees, and foreshadowed amendments to that effect.

The Christian Democratic Party supported the bill, stating that the bill was a win for the Government, a win for the environment and a win for the community. The CDP acknowledged the financial benefits that vulnerable people may gain from new opportunities to participate in the scheme, and that as many as eight out of every 10 people in the community supported the refund scheme. The second reading of the bill was agreed to on the voices.

During committee of the whole, both the Opposition and Greens moved amendments to provide that the minister may require a supplier (Oppn) or a retailer (Greens) to establish a local collection point, however both were defeated. The Greens also moved eight additional amendments that sought to apply a provision (based on the Northern Territory model) that would give the Coordinator the power to require retailers to display signage advertising the operation of a nearby collection point; ensure that the scheme Coordinator cannot operate as a network operator; reduce the financial risk to the scheme Coordinator if large bottlers delay payments to cover refunds distributed; ensure that advisory committees include people with environmental and other expertise; and require quarterly statistical reporting. All were defeated. The Opposition moved three additional amendments that sought to require twice-yearly (rather than yearly) reporting, however these were also defeated. The bill was reported from committee without amendment.

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

[Crown Land Management Bill 2016](#)

House of origin: Legislative Council

The bill reforms the management of Crown land in NSW (being land that belongs to the Government, which manages the land for the people of NSW), creating a single modern legislative framework which aims to be easier to understand and increase community involvement in major decisions relating to Crown land. The bill addresses a range of matters including provisions for Aboriginal management of Crown land; a standardised scheme for the dedication and reservation of Crown land; a new management system; and a new community engagement strategy.

The minister stated that the reforms made by the bill are the result of a thorough and consultative review of Crown land in New South Wales and extensive community consultation, and were the most comprehensive reforms undertaken in over 25 years. The reforms were developed with reference to a review undertaken in 2012, led by Michael Carapiet; a Crown Lands Legislation White Paper published in 2014; the inquiry undertaken by General Purpose Standing Committee No. 6 into Crown land in 2016; and the report of the Auditor-General on the sale and leasing of Crown land also published in 2016.

According to standing order, following the minister's second reading speech debate on the bill was adjourned for five calendar days.

[Child Protection \(Working with Children\) and Other Child Protection Legislation Amendment Bill 2016](#)

House of origin: Legislative Assembly

The bill amends the *Child Protection (Working with Children) Act 2012*, the *Children and Young Persons (Care and Protection) Act 1998* and also includes amendments to the *Teaching Services Act 1980* and the *Education (School Administrative Support Staff) Act 1987* to strengthen the Working with Children Checks scheme. For example, the bill provides for enforceable undertakings, entry without warrant into premises and the issue of penalty notices by certain employees of the Children's Guardian; and that a person whose working with children clearance has been cancelled pending determination of proceedings against the person for an offence, may be suspended or placed on alternative duties, rather than being immediately dismissed.

The Opposition did not oppose the bill, with Opposition members noting they will always do what they can to support any strengthening of legislation that guarantees child protection. The Opposition foreshadowed amendments to ensure that persons who are charged with an offence are not working on school grounds while waiting for a determination of their charges.

The Greens supported the bill, stating that it is a genuine and positive step forward, and that the provision for the exchange of information between other jurisdictions covers one of the key recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse and its report on Working With Children checks. The CDP also supported the bill, noting that the protection of children is paramount, and that the bill strengthens the child protection regime.

In committee, the Opposition moved amendments such that charged persons must not be on school grounds when children are present. The Greens opposed the amendments, noting they were unnecessary because section 9 of the *Child Protection (Working with Children) Act* provides that an employer must not employ a worker in child-related work if the employer knows the worker is not the holder of a Working With Children Check clearance. If a teacher is charged under the *Teaching Services Act* with a schedule 2 offence he or she automatically lose their Working With Children Check clearance, and that would automatically introduce section 9 of the *Child Protection (Working with Children) Act* that states the Secretary, the employer, must not continue to employ that worker in child-related work. The Government also opposed the amendments agreeing with the Greens arguments. The amendments were negatived on division (Ayes: 10 / Noes: 24). The bill was reported without amendment.

The bill was read a third time and returned to the Legislative Assembly without amendment.

Statute Law (Miscellaneous Provisions) Bill (No 2) 2016

House of origin: Legislative Council

Debate resumed from 12 October 2016 (see [previous House in Review](#) for an outline of the parliamentary secretary's second reading speech explaining the purpose of the bill).

The Opposition did not oppose the bill, noting that none of the matters canvassed were problematic. However, the Opposition highlighted two provisions relating to a definition in the *Assisted Reproductive Technology Act 2007*, and the extension of provisions for e-cigarettes under the *Public Health (Tobacco) Act 2008* to regulation-making powers. The Christian Democratic Party advised that, having reviewed the matters the subject of the bill, they supported the bill.

The second and third readings were agreed to on the voices and the bill was forwarded to the Legislative Assembly for concurrence. The Assembly agreed to the bill on 20 October 2016.

Housing Legislation Amendment Bill 2016

House of origin: Legislative Council

Debate resumed from 12 October 2016 2016 (see [previous House in Review](#) for an outline of the minister's second reading speech explaining the purpose of the bill).

The Opposition did not oppose the bill and accepted the rationale in establishing a local registration scheme for organisations unable to register under the national scheme due to structural and legislative reasons. However, the Opposition contended that there is a need for rigour and transparency in the registration process to prevent unsuitable entities from being registered under the local scheme and foreshadowed an amendment to address its concerns.

The Greens supported the bill, but argued that the bill does not go far enough in applying appropriate performance measures to ensure that social housing providers manage public assets appropriately. The Greens echoed the Opposition's concerns regarding the local registration scheme and argued that the local registration scheme should be available only to not-for-profit organisations.

The CDP supported the bill, noting that the transfer of 35 per cent of public housing to the community housing sector is achieved without privatising state-owned properties. The CDP supported the continuous growth of the community housing sector and commended providers for their creative and holistic approach to handling issues faced by vulnerable in the community. The second reading was agreed to on the voices.

During consideration in committee of the whole, the Opposition moved an amendment to require the authority administering the local registration scheme to consider and gazette the reasons why an applicant was unable to be registered under the Community Housing Providers National Law (NSW). The amendment was defeated on division (Ayes: 14/ Noes: 20) and the bill was reported without amendment.

The third reading was agreed to on the voices and the bill was forwarded to the Assembly for concurrence. The Assembly agreed to the bill the next day.

[Justice Portfolio Legislation \(Miscellaneous Amendments\) Bill 2016](#)

House of origin: Legislative Council

Debate resumed from 12 October 2016 (see [previous House in Review](#) for an outline of the parliamentary secretary's second reading speech explaining the purpose of the bill)

The Opposition did not oppose the bill, noting that many of the amendments made by the bill had been made at the request of stakeholders. The Greens supported the bill, stating that the amendments made were sensible and had the support of stakeholders. However, the Greens noted their ongoing concern with the operation of bail law in NSW, particularly the continued growth in the bail population. The Christian Democratic Party also supported the bill.

The second and third readings were agreed to on the voices and the bill was forwarded to the Legislative Assembly for concurrence. The Assembly agreed to the bill the following day.

[Regulatory and Other Legislation \(Amendment and Repeals\) Bill 2016](#)

House of origin: Legislative Council

The bill amends and repeals various regulatory and other legislation. Of note, the bill amends the *Property, Stock and Business Agents Act 2002* to clarify that a real estate and property industry licensee-in-charge is responsible for the actions of their employees. The minister advised that the amendments respond to a NSW Fair Trading prosecution against a Sydney real estate agency for underquoting the likely selling price of a residential property to consumers. The magistrate dismissed all charges on the basis that the individual agents, who had underquoted, were not directly employed by the licensees and therefore the licensees had not breached the laws.

Other amendments made by the bill will make it mandatory for real estate agents and landlords to offer tenants the new Rental Bonds Online service; enable complaints under the *Architects Act 2003* and the *Building Professionals Act 2005* to be lodged online; allow people to hold both a driver's licence and a photo card; and make other minor amendments. The minister stated that the bill continues the Government's commitment to repealing unnecessary legislation, reducing the regulatory burden, and removing barriers to digitisation within government.

According to standing order, following the minister's second reading speech debate on the bill was adjourned for 5 calendar days.

[Land Acquisition \(Just Terms Compensation\) Amendment Bill 2016](#)

House of origin: Legislative Council

The *Land Acquisition (Just Terms Compensation) Act 1991* encourages authorities to acquire land by agreement rather than through a compulsory process. However, in the event agreement on compensation is not possible, the Act allows for objection to the amount of compensation to be determined by the Land and Environment Court. The bill was introduced in response to a 2014 report undertaken by Mr David Russell SC and a recent review of the land acquisition framework from a citizen-centric perspective, undertaken by the Customer Service Commissioner, to provide for more certainty, transparency and greater compensation for landowners and residents impacted by land acquisition. Of note, the bill requires a fixed six-month negotiation period before compulsory acquisition can occur. A shorter negotiation period will only be possible in exceptional circumstances where serving the public interest requires a shorter period.

According to standing order, following the minister's second reading speech debate on the bill was adjourned for five calendar days.

Private members' business

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

Bills

Mining Amendment (Climate Protection – No New Coal Mines) Bill 2016 **(Mr Buckingham, The Greens)**

The bill prohibits the granting of any new authorisation to prospect for or mine coal in New South Wales, including extensions to existing mines. The bill also provides that compensation is not payable by or on behalf of the State because of the prohibition, and requires the refusal of an application or tender for an authorisation made but not finally determined before the commencement of the proposed Act.

Mr Buckingham stated that the bill would not cancel the 175 existing coal exploration licences or 333 existing coalmining licences, but would stop two assessment lease applications, five exploration licence applications, and 57 mining licence applications from being approved. Mr Buckingham argued that the case for change was strong, pointing to recent studies denoting record global temperatures in recent years and the need for a transition away from fossil fuels in order to limit emissions.

According to standing order, following the member's second reading speech debate on the bill was adjourned for five calendar days.

Plastic Shopping Bags (Prohibition on Supply by Retailers) Bill 2016 (Ms Sharpe, Labor Party)

The bill bans single-use plastic bags in New South Wales.

Ms Sharpe argued that the bill will reduce waste and landfill and sharply cut the other negative environmental impacts of plastic bags, including their often fatal interaction with marine life. Ms Sharpe noted that up to 61 million bags go into rubbish in NSW annually, taking decades to begin to degrade, and that the ACT, South Australian and Northern Territory have already banned the use of plastic bags. She further noted that a review of the ACT scheme found a 36 per cent decrease in the amount of plastic bag waste sent to landfill in the first two years of the scheme and a high degree of retailer compliance with the ban.

According to sessional order, following the mover's second reading speech debate on the bill was adjourned for 5 calendar days.

Motions

Dementia Awareness Month (Mrs Taylor, The Nationals)

The motion noted that September is Dementia Awareness Month, with World Alzheimer's Day on 21 September, and that across Australia more than 353,800 Australians live with dementia, supported by some 1.2 million carers, friends and family. Dementia Awareness Month, with the theme this year of 'You are not alone', aims to raise awareness and understanding among Australians about dementia, and through this encourage our communities to support those living with dementia to live a high-quality life.

In speaking to the motion, Mrs Taylor noted that dementia is a terrible condition. With no treatment available, the best that can be done for a sufferer is to provide the best support system so that those living with dementia can live a high quality of life.

The Minister for Ageing and members of the CDP and the Opposition all spoke in support of the motion, noting the impacts of dementia, the work of support groups and the broader aspects of the increasing need of care for an ageing population.

Debate on the motion was adjourned until next sitting day.

Shimon Peres (Mr Green, Christian Democratic Party)

Debate resumed from 13 October 2016 (see [previous House in Review](#) for a summary of the mover's speech in support of the motion).

While not opposing the motion, Mr Moselmane argued that while Mr Peres supported a two-state solution in latter life, Mr Peres was also part of the dismantling of the Palestinian State and the uprooting of the Palestinian people, which he argued has caused suffering. Mr Moselmane also noted that the motion moved by Mr Green indicates that not all members of the House agree with all of Mr Peres' political positions. Subsequently, Mr Clarke spoke in support of the motion, arguing that Mr Peres fought to achieve a lasting, just and equitable peace with Israel's neighbours and throughout the Middle East.

Debate was adjourned to next sitting day.

Order for papers – Indoor Sports Stadium (Ms Voltz, Labor Party)

The motion sought to order the production of documents from the the Minister for Sport, Minister for Lands and Water, Sport NSW, the Department of Primary Industries, or the Wentworth Park Sporting Complex Trust related to the location or feasibility of an indoor sports stadium in the Sydney central business district.

In speaking to the motion, Ms Voltz noted that while the Government has announced an extensive Indoor Sport Stadium Strategy of \$1.6 billion, there is little detail around what this includes and whether the Government is looking at building such a venue at Wentworth Park. The Government opposed the motion, noting that it is about to go to tender for a feasibility study for an indoor sports stadium in the Sydney central business district, and that the documents requested contain information that may be considered commercial-in-confidence and could jeopardise the tender process that is about to commence. The motion was negatived on division (Ayes: 14 / Noes: 18).

Order for papers – Proposed ban on greyhound racing (Mr Searle, Labor Party)

The motion called for the production of documents from various ministers and government agencies in relation to any market research, public opinion polls, surveys or focus group research reports into the greyhound industry or the proposal to ban the industry. Mr Searle stated that it was necessary for the Government to produce the documents in order to show the reasons behind the Government's decision to ban the industry, in favour of other alternatives and despite significant opposition to the proposal.

The Government opposed the motion, stating that while the motion called on documents relating to the ban, the Government had since announced that there would be no ban, making the motion redundant. Other Opposition members spoke in support of the motion, arguing that people had a right to know the nature of the research undertaken on the issue before the state embarks on serious reform and a bill to reverse the previous decision to ban the industry is introduced.

The motion was negatived on division (Ayes: 15 / Noes: 18).

Motions taken as formal business

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

- (1) Music Mehfil Bollywood Blast (Mr Clarke).
- (2) 30th anniversary of the Metropolitan Community Church Good Shepherd (Ms Sharpe).
- (3) Sydney Recovery Walk 2016 (Mr Mallard).
- (4) New South Wales Volunteer Rescue Association (Mrs Maclaren-Jones).
- (5) 2016 New South Wales Telstra Business Women's Awards (Mrs Maclaren-Jones).

- (6) 2016 NSW Police Sydney City Local Area Command Medals and Awards Presentation (Mr Clarke).

Petitions received

- (1) Organ harvesting and trafficking – 4,628 signatures (Irregular petition – presented by Mr Shoebridge).

Minister's response

- (2) TAFE funding – Honourable John Barilaro MP, Minister for Regional Development, Minister for Skills, and Minister for Small Business.

Reports tabled

- (1) **Auditor General:** Agency compliance with the GIPA Act, October 2016.

Committee activities

Committee reports tabled

Legislation Review Committee: 'Legislation Review Digest No. 27/56', dated 18 October 2016.

Procedure Committee: 'Young children accompanying members into the House', Report No. 9, dated October 2016.

Committee reports debated

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

Standing Committee on State Development: The House continued the take note debate on Report No. 40 entitled 'Economic development in Aboriginal communities', dated October 2016.

General Purpose Standing Committee No. 6: The House continued the take note debate on Report No. 4 entitled 'Crown land in New South Wales', dated October 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 closing date for submissions is 23 October 2016. The committee will be conducting hearings at Parliament House on 31 October, 1 November and 29 November. It will also hold a hearing in Orange on

2 November. The committee is due to report by March 2017.

General Purpose Standing Committee No. 2

Inquiry into child protection

The committee conducted two public hearings and an Indigenous consultation during September 2016. The committee is expected to report by February 2017.

General Purpose Standing Committee No. 3

Inquiry into enrolment capacity in inner city public primary schools

Submissions have now closed. 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 intends to hold hearings in February 2017.

General Purpose Standing Committee No. 4

Inquiry into museums and galleries

The committee has received 171 submissions and held three public hearings to date. The committee held an additional public hearing in Sydney on 19 October and a further one will be held on 14 November 2016.

General Purpose Standing Committee No. 5

Inquiry into water augmentation for rural and regional New South Wales

Submissions have been reopened until 31 January 2017. The committee will travel to Broken Hill/Menindee Lakes on 25 and 26 October for a site visit and public hearing. There will also be a hearing in Sydney on 7 November 2016.

Inquiry into Wambelong fire inquiry evidence

The committee tabled its report on Friday 21 October 2016.

Law and Justice Committee

First review into New South Wales workers compensation scheme

Submissions have now closed. The committee will hold hearings on 4 and 7 November 2016.

State Development Committee

Inquiry into regional planning processes in NSW

The committee is currently preparing its report which will be tabled by the end of the year.

Social Issues Committee

Inquiry into childhood overweight and obesity

The committee has held two public hearings and conducted a site visit on 21 October 2016. It is due to report by the end of the year.

Adjournment debate

Tuesday 18 October 2016

Mr Murray Kear and Independent Commission Against Corruption (Mr Khan); Hospital privatisation (Mr Mookhey); Animal cruelty (Mr Brown); Hunter region (Mr MacDonald); Multicultural and Indigenous Media Awards (Mr Moselmane); Rocky Hill coal project (Mr Buckingham).

Wednesday 19 October 2016

Paid domestic violence leave (Mr Primrose); Shoalhaven River flood boats (Mr Green); Choragic Monument of Lysicrates (Mr Pearce); Regional public sector jobs (Mr Veitch); Greyhound racing industry ban (Dr Faruqi); Mental Health Month (Mr Farlow).

Thursday 20 October 2016

Sport and recreation camps (Ms Voltz); Duke of Edinburgh Employer Project (Mrs Maclaren-Jones); Australian National Theatre Live (Mr Secord); Regional arts (Mr Franklin); Renewable energy (Mr Buckingham); Anti-Poverty Week (Mr Field).

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.



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