

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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9 to 11 May 2017*

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 House considered three government bills this week, debated a disallowance motion and finalised 19 items of private members' business during formalities. In addition, two private members' bills were debated, one of which, the Abortion Law Reform (Miscellaneous Acts Amendment) Bill 2016, attracted significant interest both in the House and the wider community – a petition containing 56,558 signatures opposing the bill was presented this week. In addition, the Legislative Council committees will continue to be kept busy, with two new inquiries commencing, one looking at growing defence industries in the state, and the other inquiring into the emergency service agencies. The House returned to its full complement with the swearing in of the House's newest member, Mr Taylor Martin.

A procedural highlight of the week was the decision of the House to split the Statute Law (Miscellaneous Provisions) Bill 2017 into two bills. This procedure for the splitting of a bill is highly unusual – only three bills have been split in the history of the Council, the previous occasions being in 2014 and 2000.

The House stands adjourned until 23 May 2017.

New member Mr Taylor Martin sworn in

On Tuesday 9 May 2017, Mr Taylor Martin took the oath of allegiance before the President and signed the Roll of the House, before taking his seat in the House.

Motion to disallow Workers Compensation Regulation

On Wednesday 10 May 2017, Mr Shoebridge (The Greens) moved a motion to disallow clause 9 of the Workers Compensation Regulation 2016. Clause 9 provides that an employer is not liable to pay compensation to assist a worker to return to work with a new employer if the new employment is for less than three months or the offer of employment was not made in writing. It also requires insurers to determine claims for return to work assistance within 14 days.

In support of the motion, Mr Shoebridge argued that sometimes the only way an injured worker can get back into the workforce is to accept work of less than three months, or work offered without written confirmation, and that in such a case the worker should not be excluded from receiving assistance to return to work. He noted that return to work assistance covers small costs for things such as travel, clothing and short term child care, and argued that the workers compensation scheme could well afford to extend such payments to workers currently excluded by clause 9.

The Parliamentary Secretary (Mr Farlow) opposed the motion, stating that clause 9 ensures that benefits are provided to assist workers return to sustainable long term employment, that a written offer of employment reflects standard practice and provides evidence in support of a claim for assistance, that the Legislation Review Committee had reported favourably on the Regulation, and that it would be perverse to remove a requirement for insurers to process claims within a reasonable time. Other government members also opposed the motion, noting that the three month period aligns with an established test of durable employment, that a requirement for written proof of work is not onerous, and that clause 9 had been subject to extensive consultation.

The Opposition supported the motion, arguing that injured workers should not be deprived of meaningful tools to assist them to return to the workforce, that the cost of extending assistance to workers excluded by clause 9 would not be great, and that removing the time limit for determining claims for assistance would not remove the obligation of insurers to determine claims properly.

The Christian Democratic Party and the Shooters, Fishers and Farmers Party did not support the motion but stated that they expected the Government to take on board the concerns which had been raised in relation to clause 9 and examine whether any changes are required.

The motion was negatived (Division: 16/20).

Government business

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

[Crown Land Legislation Amendment Bill 2017](#)

House of origin: Legislative Assembly

The *Crown Land Management Act 2016* consolidated into one Act provisions dealing with the ownership, use and management of the Crown land of the State. When that bill was introduced, the Government noted that it was the first stage in the process of creating a new legislative regime for Crown land, with a second bill to be introduced in 2017 to make consequential amendments to legislation and further repeals if required. The Crown Land Legislation Amendment Bill is that second bill.

The bill abolishes the Public Reserves Management Fund and establishes instead a Crown Reserves Improvement Fund, amends the *Roads Act 1993* with respect to the closure, maintenance, transfer and sale of Crown roads, and makes numerous consequential amendments to other pieces of legislation.

Speaking to the bill, the Minister (Mr Blair) stated that the bill consolidates legislation that in some cases was more than a century old, and argued that it reduces red tape, particularly with respect to the closure and sale of Crown roads, streamlines administrative processes and ensure that Crown land is retained for a range of conservation and community purposes.

The Opposition noted that the concerns it held regarding the Crown Land Management Bill in 2016 also applied to this bill, namely that the aim of the Government was to expedite the disposal of Crown land assets. The Opposition strongly opposed the section of the bill relating to the sale and closure of Crown roads, and also challenged the Government's assertion that the bill would result in red tape and administrative savings.

The Shooters, Fishers and Farmers Party noted that their main concern with the bill was the potential impact of crown land road closure limiting public access to recreational areas, particularly fishing waterways. The SFFP said that they would support the bill conditional upon the Government providing some assurances to this issue.

The Greens held serious concerns regarding some provisions in the bill, particularly the sale of local public roads without appropriate oversight, notification and appeal provisions. The Greens also noted that in the

past there had been no transparent reporting on how the Public Reserves Management Fund distributed its funds, but that this had improved dramatically in recent years.

The Christian Democratic Party supported the bill, stating that they believed it dealt with a lot of the unresolved issues relating to crown land that had been raised in the recent parliamentary inquiry.

The Opposition and the Greens both foreshadowed that they would not oppose the second reading of the bill, but that if the bill was not amended so as to allay their concerns during the committee stage they would oppose the third reading.

In reply, the Minister argued that while the bill removed unnecessary administrative steps it did not diminish any of the safeguards regarding the closure and sale of crown and public roads. The Minister advised the House that the Government was continuing work on improving on-line search facilities and notification processes regarding proposed crown road closures and that the regulations for the Crown Land Management Act would go on public display prior to the Act's commencement date. The Minister also emphasised that the bill did nothing to remove protection of travelling stock routes and posed no threat to public showgrounds.

The second reading was agreed to.

In the committee stage the Opposition and The Greens each moved a number of amendments all of which were defeated either on the voices or on division. The suite of amendments sought to remove the provisions relating to the sale and closure of crown roads and the regulation making powers from the bill, to mandate annual reporting from the new fund, to extend the submission period and relevant considerations relating to road closures and to provide a blanket restriction on the sale of crown roads linked to travelling stock routes. The Government, Christian Democratic Party and the Shooters Fishers and Farmers Party opposed all of the amendments, with the exception of the amendment relating to travelling stock routes which was supported by the SFFP.

The Opposition, Greens and Animal Justice Party opposed the third reading of the bill, which was nevertheless agreed to on division (Ayes 20/Noes 16). The bill was returned to the Assembly without amendment.

Statute Law (Miscellaneous Provisions) Bill 2017

House of Origin: Legislative Assembly

The bill continues the statute law revision program, which has been in place for more than 30 years. Bills of this kind have featured in most sessions of Parliament since 1984, and generally contain policy changes of a minor and non-controversial nature that are too inconsequential to warrant the introduction of a separate amending bill.

The bill encompassed six schedules, and included amendments to the following Acts (amongst others): Barangaroo Delivery Authority Act 2009, Carers (Recognition) Act 2010, Motor Dealers and Repairers Act 2013, Biofuels Act 2007, Pawnbrokers and Second-hand Dealers Act 1996, Law Enforcement (Controlled Operations) Act 1997, Tow Truck Industry Act 1998 and the Fines Amendment (Electronic Penalty Notices) Act 2016. While the bill as presented included ten amendments to the Acts establishing public universities, some members wished to consider these amendments in greater detail, and hence the House agreed to an instruction to the Committee of the Whole to split the bill into two: the Statute Law (Miscellaneous Provisions) Bill 2017 and the Universities Legislation Amendment (Planning Agreements) Bill 2017. The latter bill is now on the House's Notice Paper for consideration.

The Greens and the Opposition did not oppose the bill, but the Opposition foreshadowed amendments in relation to transition provisions for the appointment of commissioners of the Independent Commission Against Corruption. In committee of the whole, while the Opposition amendment was supported by The Greens, it did not garner any other support and was negated on the voices.

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

Civil Liability (Third Party Claims Against Insurers) Bill 2017

House of origin: Legislative Council

Debate resumed from 3 May 2017. The bill replaces section 6 of the Law Reform (Miscellaneous Provisions) Act 1946 with provisions that ensure a plaintiff can recover compensation or damages directly from an insurer. (see [previous edition of House in Review](#) for an outline of the Parliamentary Secretary's speech explaining the purpose of the bill).

The Opposition, The Greens, the Christian Democratic Party and members of the Government all spoke in favour of the bill. Members noted that the bill replaces section 6 of the Law Reform (Miscellaneous Provisions) Act 1946, which is uncertain in its operation, with new provisions recommended by the Law Reform Commission. It was also noted that national legislation on the issue would be desirable but there was no sign of the Commonwealth taking action, that the bill included retrospective changes but would not increase the liability of insurers, and that key stakeholders had expressed support for the reforms.

The second and third readings of the bill were agreed to and the bill forwarded to the Legislative Assembly for 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.

Bills

Abortion Law Reform (Miscellaneous Act Amendment) Bill 2016 (Dr Faruqi, The Greens)

The bill was introduced by Dr Faruqi on 11 August 2016 (see [earlier edition of House in Review](#) for Dr Faruqi's second reading speech). The bill proposed the repeal of existing abortion offences in the *Crimes Act 1900*; required doctors to disclose to a patient if he or she had a conscientious objection to abortion and to refer the patient to another medical practitioner; and provided for safe access zones around reproductive health clinics.

Prior to debate on the second reading of the bill resuming, the President made a statement regarding the conduct expected of the many people present in the public galleries who came to observe proceedings.

Members of the Government and of the Opposition noted during the debate that they were not obliged to vote along party lines, but were able to exercise a conscience vote on the bill.

Members who supported the bill argued for the right of women to control their own bodies without intervention from the state; the need to remove regulation of what is a medical service from the *Crimes Act*; the fact that, apart from New South Wales and Queensland, all other States and Territories had taken action to de-criminalise abortion; that the threat or notional risk of prosecution for performing an abortion was a barrier to this procedure being provided in the public health system; and that the provision of safe access zones did not offend the right to free speech but upheld the right of people to go about their private business free from harassment.

Members who spoke in opposition to the bill questioned whether the bill was necessary or appropriate at this time, citing the number (approximately 27,000) of abortions that occur in New South Wales each year and that the last conviction had occurred in 2006, and prior to that it was in 1980. It was argued that to simply remove offences from the statute book without at the same time implementing some type of regulatory framework was not consistent with community expectations.

In reply, Dr Faruqi noted that the bill was the product of extensive consultation with stakeholders over a lengthy period, and that the bill would not result in a regulatory void, as abortion services would be covered by the regulatory regime applicable to all medical procedures.

The House divided on the second reading. The bill was negatived (14 Ayes/ 25 Noes).

Local Government Amendment (Amalgamation Referendums) Bill 2017 (Mr Borsak, Shooters, Fishers and Farmers)

The object of the bill is to amend the Local Government Act 1993 to provide that plebiscites are to be held to determine whether the electors of the local government areas amalgamated during 2016 wish the amalgamations to be reversed, and that certain proposed amalgamations of local government areas are not to proceed unless approval for this has been provided by the electors at a referendum.

Speaking to the bill, Mr Borsak noted that the Shooters, Fishers and Farmers party has opposed forced council amalgamations, noting that local residents did not get a vote on the issue, and that councils are a significant employer and service provider, especially in regional areas. He noted that without those services, many rural communities would struggle to survive or to attract and retain their local populations. Mr Borsak noted that if a community voted at a plebiscite to reverse a council amalgamation, the Minister for Local Government would be required to use his or her best endeavours to give effect to the vote.

Debate was adjourned for five calendar days.

Motions

Dementia Awareness Month (Mrs Taylor, The Nationals)

Debate on the motion resumed from 4 May 2017 (see [earlier edition of House in Review](#) for details).

The motion notes that September is Dementia Awareness Month, and that across Australia more than 353,800 Australians live with dementia, supported by some 1.2 million carers, friends and family.

Members continued to expand on the themes raised in the earlier debates on the motion, namely the importance of raising awareness and understanding of the impact of dementia, including that dementia is not one specific disease but describes a collection of symptoms that are caused by disorders affecting the brain. Members again acknowledged the important and difficult role of carers and noted that as the population ages the prevalence of the disease will increase.

The motion was agreed to.

Motions taken as formal business

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

- (1) 2017 Barnardos Mother of the Year (Mrs Maclaren-Jones).
- (2) Support for the transition to renewable energy (Mr Buckingham).
- (3) 40th Anniversary of the Goulburn Lantern Club (Mrs Maclaren-Jones).
- (4) Ecumenical Service for Coptic Christians killed in Egypt (Mr Clarke).
- (5) 16th Anniversary of Vietnam Sydney Radio (Mr Clarke).
- (6) Fairfax job cuts (Mr Graham).
- (7) Lebanese Forces Australia—Sydney Branch dinner (Mr Clarke).
- (8) Australian Taiwanese Friendship Association (Mr Clarke).
- (9) 58th Japanese Antarctic Research Expedition Team (Mr Clarke).

- (10) Australian Middle East Media gala dinner (Mr Clarke).
- (11) Order of the Australian Hellenic Educational Association 60th Anniversary dinner (Mr Clarke).
- (12) Reach Out World Wide Charity (Mr Clarke).
- (13) Newcastle City Local Area Command Police Medals and Awards (Mr MacDonald).
- (14) Hunternet Future Leaders program (Mr MacDonald).
- (15) 2017 Jim Kerr Address (Mr MacDonald)
- (16) Indigenous suicide rate (Mr Moselmane).
- (17) Liveable Communities Grants Program and the University of Newcastle (Mr MacDonald).
- (18) International Nurses Day (Mrs Maclaren-Jones).
- (19) Future Movement Australia - Sydney Chapter gala dinner (Mr Clarke).

Petitions received

- (1) Opposition to abortion law reform bills – 366 signatures (presented Revd Mr Nile).
- (2) Opposition to abortion law reform bills– 56,558 signatures (presented Mr Donnelly).
- (3) Opposition to abortion law reform bills – 60 signatures (presented Revd Mr Nile).

Minister's response

Honourable Don Harwin MLC, Minister for Resources, Minister for Energy and Utilities and Minister for the Arts, presented a response to a petition presented by Mr Field on 6 April 2017 concerning coal seam gas exploration in the Shoalhaven.

Committee activities

Committee references

Standing Committee on State Development: The Chair informed the House that on 9 May 2017, the committee resolved to inquire into the defence industry in New South Wales.

Portfolio Committee No. 4 – Legal Affairs: The Chair informed the House that on 11 May 2017, the committee resolved to inquire into emergency service agencies in New South Wales.

Committee reports tabled

Legislation Review Committee: 'Legislation Review Digest No. 36/56', dated 9 May 2017.

Committee reports debated

Standing Committee on State Development: The House concluded the take note debate on Report No.

41 entitled 'Regional planning processes in New South Wales', dated November 2016.

General Purpose Standing Committee No. 2: The House continued the take note debate on Report No. 45 entitled 'Budget Estimates 2016-2017', dated December 2016.

General Purpose Standing Committee No. 3: The House concluded the take note debate on Report No. 35 entitled 'Budget Estimates 2016-2017', dated December 2016.

Standing Committee on Social Issues: The House continued the take note debate on Report No. 51 entitled 'Childhood overweight and obesity', dated December 2016.

General Purpose Standing Committee No. 3: The House continued the take note debate on Report No. 36 entitled 'Inner city public primary school enrolment capacity and redevelopment of Ultimo Public School', dated February 2017.

Inquiry activities

Select Committee on Off-Protocol Chemotherapy in New South Wales

The committee has received 115 submissions and conducted six hearings. The committee will report by 19 May 2017.

Select Committee on Human Trafficking

The committee has received 28 submissions and held two hearings. Further hearings will take place on 29 May and 15 June. The committee is due to report by September 2017.

Standing Committee on Law and Justice

First review of the Dust Diseases and Lifetime Care and Support schemes

The committee commenced its first review of the Dust Diseases and Lifetime Care and Support schemes on 13 March 2017. The committee has received nine submissions for the review of the Lifetime Care and Support scheme and six submissions for the Dust Diseases scheme. The committee will conduct two public hearings in Sydney on 2 and 28 June 2017.

Standing Committee on State Development

Inquiry into regional development and a global Sydney

Submissions to the inquiry close on 4 June. A Sydney hearing will be held on 19 June and regional visits will be conducted in August and September 2017. The committee is due to report by April 2018.

Portfolio Committee No. 2 – Health and Community Services

Inquiry into road tolling

Submissions to the inquiry have now closed. The committee held two public hearings on 11 and 12 April 2017 and will hold an additional public hearing on 22 May 2017.

Portfolio Committee No. 3 – Education

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

The committee has received 409 submissions to date and has held three public hearings. The next hearing will take place on 19 May 2017 in the Illawarra, with two further hearings to be held in June 2017.

Portfolio Committee No. 4 – Legal Affairs

Inquiry into museums and galleries

The report is currently being drafted and is due to be tabled on 15 June 2017.

Portfolio Committee No. 5 – Industry and Transport

Inquiry into water augmentation for rural and regional New South Wales

The committee has received over 100 submissions. The committee will be holding hearings in Moree, Tamworth and Orange from 15 to 17 May, with further Sydney hearings in early June 2017.

Portfolio Committee No. 6 – Planning and Environment

Inquiry into energy from waste technology

The committee has commenced its inquiry into 'energy from waste' technology. The closing date for submissions is 28 May 2017 and the committee intends to conduct hearings in the latter half of the year.

Reports tabled

Acting Ombudsman: 'Operation Prospect: A report on developments', dated May 2017.

Auditor General: 'Mining Rehabilitation Security Deposits: Department of Planning and Environment', dated May 2017.

Adjournment debate

Tuesday 9 May 2017

North Coast floods (Mr MacDonald); 1917 Railway strike (Mr Graham); Koala Habitat Protection (Ms Walker); Energy prices (Mr Searle); Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2016 (Mr Borsak).

Wednesday 10 May 2017

Broken Hill historic buildings (Mr Secord); Inland rail link (Mr Brown); Social housing (Mr Farlow); Death of Shirley Carter (Mr Donnelly); Transport and energy systems (Mr Buckingham); Waverley Council (Ms Cusack).

Thursday 11 May 2017

Green space protection (Dr Faruqi); North Coast shark net barriers (Mr Franklin); Sydney median house prices (Mr Mookhey); Heavy vehicle road deaths (Mr Mookhey); Climate change and parenting (Mr Field); Local industries (Mr Amato); Education (Mr Moselmane).

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.

A handwritten signature in black ink, appearing to read 'DB', with a large, sweeping flourish at the bottom.

David Blunt
Clerk of the Parliaments