

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/11

*Sitting period
13 to 16 September 2011*

The *House in Review* provides a summary of the New South Wales Legislative Council's activities for each sitting week. 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.

Address-in-Reply

Debate concluded on the Address-in-Reply to the opening speech given by Her Excellency the Governor at the opening of Parliament on 3 May 2011 (which followed the March election). The reply expresses the thanks of members for the Governor's speech and their assurance they will faithfully carry out the duties entrusted to them by the people of New South Wales.

Debate, which commenced in May, was wide-ranging with members discussing a variety of matters properly considered by Parliament. A number of members made their inaugural speeches during the course of the debate.

The House will present the Address-in-reply to Her Excellency the Governor at Government House on Wednesday, 12 October 2011 at 10.30 am.

Free conference on the Graffiti Legislation Amendment Bill 2011

As reported in edition 55/9 of *House in Review*, on 25 August 2011, the Council made a number of amendments to the Graffiti Legislation Amendment Bill 2011 and returned the bill, together with the amendments, to the Assembly.

The Assembly subsequently sent a message disagreeing with the Council's amendments.

The Council considered the Assembly's message in committee of the whole on 13 September 2011. The Government moved that the Council not insist on its original amendments to the bill. However, the Opposition successfully moved an amendment to request a free conference between the two Houses on the bill (Divisions 21:20).

A free conference is an opportunity for members appointed by the Council to meet directly with members of the Legislative Assembly in an attempt to seek a resolution to the disagreement.

A message was sent to the Legislative Assembly requesting a free conference and advising that the following ten members had been appointed as managers for the Legislative Council: Mr Borsak, Mr Donnelly, Ms Fazio, Mr Foley, Mr Primrose, Mr Searle, Mr Secord, Mr

Shoebridge, Ms Voltz and Ms Westwood. The message is currently before the Legislative Assembly.

Sending a request for a free conference is rare. The last free conference was held in New South Wales in 1978, and the last request for a free conference by the Council was in 1857.

Motion of appreciation for the retiring Clerk of the Parliaments

Ms Lynn Lovelock, Clerk of the Parliaments and Clerk of the Legislative Council, is retiring on Friday, 7 October 2011.

On Friday, 16 September 2011, the House's last sitting day before Ms Lovelock's retirement, the Leader of the Government moved that the House express its appreciation for the distinguished service to the Legislative Council and the State by Ms Lovelock.

Members of the House spoke in support of the motion. Members expressed their thanks to Ms Lovelock for the diligent way in which she discharged her duties, upholding the traditions of impartiality and confidentiality expected of the Clerk. Members also spoke of the many achievements of Ms Lovelock during her 25 years of service with the Legislative Council, a period coinciding with great change and modernisation for the House.

The motion was unanimously agreed to, members expressing their support for the motion by standing acclamation.

2010-2011 Budget Estimate – Take note

The House commenced the take-note debate on the Budget Estimates and related papers for the financial year 2011-2012. This debate is generally wide-ranging, and is an opportunity for members to speak about any aspect of the administration of the state and the Government's policy directions.

Government business

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

Appropriation Bill 2011

Summary: The Appropriation Bill is the annual budget bill which appropriates sums out of the Consolidated Fund to provide for the expenditure of the Government in the financial year 2011-2012. This year the bill also includes the annual appropriations for Parliament which since 1993 had been set out in a separate appropriation bill. The bill is cognate with the Duties Amendment (First Home – New Home) Bill 2011.

Proceedings: The bill was received from the Assembly on 8 September 2011 and read a first time. Debate resumed on 14 September 2011. In his second reading speech, the Minister (Mr Pearce) said the budget achieved fiscal responsibility while focussing on frontline services and delivery of much-needed infrastructure. While an operating deficit of \$718 million was forecast for 2011-2012, the budget was expected to return to surplus by 2012-2013 which, the Minister said, represents a \$5.2 billion turnaround on the financial legacy of the previous Government. The Minister noted that the budget commits the Government to \$8 billion in savings through the realisation of efficiency savings.

The Opposition did not oppose the bill, but argued that the budget represented a deterioration of the financial legacy left by the previous Government, noting that while it reduced employment and services and increased taxes it was still forecast to be in deficit in its first year. The Opposition noted that many funding promises made in the lead-up to the election were not to be found in the budget and was critical of the fact that it was not apparent where and how much of the \$8 billion in forecast savings were to be realised.

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

Duties Amendment (First Home – New Home) Bill 2011

Summary: The bill amends the *Duties Act 1997* in relation to the duty exemptions and concessions available to first home buyers. The current exemptions and concessions available under the First Home Plus Scheme (which include no duty on homes valued up to \$500,000 and vacant land valued up to \$300,000) will, from 1 January 2012, under the newly named First Home – New Home Scheme, be available only with respect to new homes or vacant land that is intended to be used as the site of a new home. The bill is cognate with the Appropriation Bill 2011.

Proceedings: The bill was received from the Assembly on 8 September 2011 and read a first time. Debate resumed on 14 September 2011. In his second reading speech the Minister (Mr Pearce) said it was a difficult decision to restrict the current concessions but that in trying economic times it was important to target assistance to areas where it is most needed. The Minister noted that many experts had argued that concessions can serve to put upward pressure on home prices, particularly existing home prices, and that an increase in housing supply can serve to act as a stimulus without a corresponding increase in price. The Opposition voiced concern over the potential impact of the bill on the people of Western

Sydney given that fourteen of the top twenty postcodes in which the current scheme had been taken advantage of to date were from this area.

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

Business Names (Commonwealth Powers) Bill 2011

Summary: The bill refers certain State powers relating to the registration and use of business names to the Commonwealth Parliament so as to enable the Commonwealth to establish a single national business names register. The national business names project was established in 2008, as part of the Council of Australian Governments' national seamless economy partnership agreement. The national online register will be administered by the Australian Securities and Investments Commission.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Parliamentary Secretary (Mr Mason-Cox) said the bill will help cut red tape for businesses, especially those that operate across State borders and was the culmination of an important national reform initiative. The purpose of the registration is to ensure that consumers and traders are easily able to identify who is operating a business, and it removes the need for a person to register a business name in multiple jurisdictions.

The Opposition and Christian Democratic Party supported the bill and the national reform process. The Greens did not oppose the bill but relayed some concerns including the conflict in meeting both privacy and business transparency needs regarding information available on the register.

In his reply, the Parliamentary Secretary noted that a number of operational issues including those raised during debate were being examined by the ASIC and the Commonwealth.

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

Veterinary Practice (Interstate Veterinary Practitioners) Bill 2011

Summary: The bill amends the *Veterinary Practice Act 2003* to enable veterinary practitioners registered in other States or Territories to practise in New South Wales without having to register separately in New South Wales; and veterinary practitioners registered in New South Wales to practise in other jurisdictions without registering in those jurisdictions. The Bill gives effect to the National Recognition of Veterinary Registration model, which was endorsed by the Primary Industries Ministerial Council.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Gay) argued that the bill makes a straightforward amendment which will significantly benefit veterinarians, especially those working near state

borders. The Minister noted that the current arrangements are not only cumbersome, but prevent the State responding urgently to disease outbreaks. New South Wales is the second state after Victoria to introduce the legislation.

The Opposition did not oppose the bill, noting that the bill is one element of a broader initiative to deliver consistency in the registration of professionals across Australia, and will bring benefits in dealing with biosecurity threats. Similarly, the Greens and Christian Democratic Party supported the bill for making it easier for veterinarians to practise across both the State and the country.

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

Identification Legislation Amendment Bill 2011

Summary: The bill amends certain Acts so as to enable police officers and certain other public officials to require the removal of face coverings for identification purposes; to enable police officers to request the identities of persons in connection with the giving of move on directions; and to provide for identification procedures in connection with the making and receiving of statutory declarations and affidavits.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech the Minister (Mr Gallacher) said the bill ensures that police and other specified officers have the powers they need to exercise their functions and to ensure the protection of the community, while respecting and being responsive to the different reasons that people may have for wearing face coverings. The Minister emphasised the Government had consulted with the Islamic community on the content of the bill and that the resulting legislative safeguards provided by the bill, including monitoring and report by the Ombudsman, strike a balance between the need for officers to have certain powers and the appropriate exercise of them with respect to the diverse needs and wishes of all members of society.

The Opposition did not oppose the bill citing its precise and specifically drawn provisions regarding the power to request the removal of face coverings. The Christian Democratic Party supported the bill while noting their preferred position was a more general prohibition on the wearing of face coverings in public. The Greens did not oppose the bill but were concerned by some of its provisions which they argued resulted in inappropriate expansion of existing powers and which they indicated they would seek to amend during the committee stage. They also argued that the provision enabling police to request the identities of persons in relation to move on directions was included in this bill because of the need to overcome an operational flaw arising from the recent *Summary Offences Amendment (Intoxicated and Disorderly Conduct) Act 2011*. The second reading was agreed to.

In the committee stage the Greens moved a series of amendments. An amendment to remove the power of a police officer to request the identity of a person to whom the officer proposes to give a move-on direction was negated, as was an amendment to more strictly define

the term lawfully required. A number of amendments seeking to expand the scope of the Ombudsman's review of the operation of the new police powers, notwithstanding the support of the Opposition, were not agreed to (Division 13:16). Amendments to restrict the expanded powers granted to court security officers and to relax the requirement that a person receiving a statutory declaration or affidavit must see the face of the person making it were also negated.

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

Private members' business

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

Motions

Anti-Israel Boycott, Divestment and Sanction (BDS) Campaign (Mr Clarke, Liberal Party)

Summary: The motion noted with concern the anti-Israel Boycott, Divestment and Sanction (BDS) Campaign against Australian businesses, condemned the targeting of Max Brenner Chocolate Cafes by anti-Israel protestors, noted that some of the rhetoric used in the campaign has descended into anti-Semitism, and condemned anti-Semitism in all its forms.

Proceedings: Standing orders were suspended to bring on the item of business. In speaking to the motion, Mr Clarke argued that the BDS campaign is a divisive campaign targeted against the legitimacy of the state of Israel, and that the targeting of private businesses like Max Brenner is an unwelcome and divisive development.

The Opposition supported the motion, condemning the BDS campaign as an attempt to isolate Israel and turn it into an illegitimate State. The Opposition also noted the contribution of the Jewish community in Australia and strongly opposed the intimidation of Max Brenner customers and workers.

The Christian Democratic Party supported the motion, condemning the impact of the campaign on Jewish people and expressing concern about the future extension of the BDS campaign beyond Max Brenner.

The Greens condemned anti-Semitism in all its forms, and to that extent unanimously supported elements of the motion. Some members of The Greens argued that the BDS is a legitimate mechanism to address the situation of the Palestinian people and the role that the policies of the Israeli Government have played in that situation. Dr Kaye sought to amend the motion by removing reference to the overall BDS campaign while retaining reference to the targeting of the Max Brenner Cafes. The amendment was defeated (Division 5:31). Ms Faehrmann moved amendments to the motion to modify the condemnation of the BDS and the targeting of Max Brenner and to express support for Australia's rich heritage of peaceful protest. These amendments were negated. The original motion was agreed to without amendment.

Forests NSW research staff (Mr Whan, Australian Labor Party)

Summary: The motion calls on the House to note that the Government has removed 11 out of 33 research staff positions at Forest NSW's research facility at West Pennant Hills resulting in the loss of important specialised skills; and that the House condemn the Government for its action.

Proceedings: Debate on the motion commenced according to precedence. Mr Whan argued that the decision has had a dramatic effect on the families concerned and also places a number of important public interest research projects under threat. Debate was interrupted for Questions.

Motions taken as formal business

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

- (1) Commissioner of Police, Mr Andrew Scipione (Mr Gallacher)
- (2) The Hon Ralph J. Hunt AO (Miss Gardiner)
- (3) Condolence motion – Mr Alan Robert Lindsay Gordon (Mr Veitch)
- (4) New South Wales Science Week (Ms Ficarra)
- (5) Heart Foundation Doorknock Appeal (Ms Ficarra).
- (6) Small Business September (Ms Ficarra)
- (7) Pakistan Association of Australia (Ms Ficarra)
- (8) Father Atanasio Gonelli Charitable Fund (Ms Ficarra)
- (9) Multicultural Communities Council of Illawarra 35th anniversary celebration (Ms Ficarra)
- (10) Coach Wayne Bennett AM (Mr Ajaka)
- (11) 33 Postcards film (Ms Ficarra)
- (12) Anti-Semitism (Dr Kaye)
- (13) Riding for the Disabled Association (Mr Veitch).

Orders for papers

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

Orders made

Order for Papers – Casino, Liquor and Gaming Control Authority (Mr Whan, Australian Labor Party)

Summary: The motion orders, within 14 days, all papers relating to appointments made since 26 March 2011 to the Casino, Liquor and Gaming Control Authority and in particular to that of Mr Brian Ross.

Proceedings: Standing orders were suspended to bring on the item of business (Division 19:17). Mr Whan argued that on face value the appointment of Mr Ross appeared contrary to the stated position of the Government relating to the appointment of lobbyists to Boards. The

Greens supported the motion arguing that it was important to have transparency with respect to any appointments to the Authority given its almost judicial-like powers. The motion was agreed to (Division 19:18).

Order for Papers – Tillegra Dam – further order (Dr Kaye, The Greens)

Summary: The motion ordered, within 14 days, all documents in possession of Hunter Water Corporation relating to Tillegra Dam or any other form of augmentation of water supply for the Hunter region.

Proceedings: Standing orders were suspended to bring on the item of business. Dr Kaye by leave amended the motion to require the provision of papers within 28 days. Dr Kaye argued that it had been understood by opponents that Tillegra Dam was no longer under consideration, however concerns had again been raised that the new water plan under development by Hunter Water was actively contemplating a new water storage area. The motion was agreed to.

Returns to order

- (1) **Impact of proposed carbon price legislation on public transport:** received 9 September 2011, 9 boxes public, 1 box privileged.
- (2) **Chemical release from Orica Limited's Kooragang Island site:** additional documents relating to the return to order received 8 September 2011, received 12 September 2011, 1 box public.

Petitions received

- (1) Support for scripture classes – 106 signatures (presented Revd Mr Nile)
- (2) Opposition to euthanasia – 62 signatures (presented Revd Mr Nile)
- (3) Religious discrimination – 136 signatures (presented Mr Moselmane).

Committee activities

Committee report tabled

Legislation Review Committee: Legislation Review Digest No. 4/55, 13 September 2011.

Reports tabled

Inspector of the Independent Commission Against Corruption: Annual Report 2011.

Adjournment debate

Tuesday 13 September 2011

Roald Dahl Day (Mr Blair); Terrorist attacks on the United States of America tenth anniversary (Mr Moselmane); National Parks management (Mr Brown); Playgroup NSW (Mr Donnelly); Foreign ownership of agricultural land (Mr Borsak); Hunter-New England Regional Health (Mrs Pavey).

Wednesday 14 September 2011

Public infrastructure (Mr Searle); Byron Bay events (Ms Barham); New South Wales young farmers (Mrs

Mitchell); Raleigh Dairy Holdings North Bank Dairy (Mr Roozendaal); John Ellis and the Catholic Church (Mr Shoebridge); Illawarra Rugby League centenary (Mr Ajaka); English Rugby Union team (Ms Voltz).

Thursday 15 September 2011

Bravehearts Inc. (Mr Green); International Day of Democracy (Mrs Maclaren-Jones); Death penalty (Mr Secord); Target shooting as school sport (Mr Borsak); Young Public School Sesquicentenary (Mr Veitch); Tribute to John (Spud) Murphy (Mr Lynn); Tribute to Paterson Clarence Hughes (Dr Phelps).

Friday 16 September 2011

'For Kids' Sake' report (Mr Donnelly); Health budget (Mr MacDonald); Black Dog Institute (Mr Green); Goldmining (Mr Buckingham).

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.

Farewell from the Clerk

This will be the last edition of *House in Review* that I have the honour of presenting. I trust that over the last two years you have found this publication to be of both interest and use.

The next edition will be presented under the signature of my successor, Mr David Blunt, who will take on the role of Clerk of the Parliaments from 8 October 2011.



Lynn Lovelock
Clerk of the Parliaments