

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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*Budget estimates
24 to 28 October 2011*

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

Each year Government ministers and senior public servants attend an annual budget estimates inquiry to answer questions about the expenditure, performance and effectiveness of their departments.

Budget estimates is a key process for government accountability and transparency. The budget estimates inquiries involve hours of detailed questioning by members of the Legislative Council on the decisions, actions and advice of ministers and public servants.

The budget estimates inquiries are conducted by the Legislative Council's five General Purpose Standing Committees (GPSCs).

This year, the initial round of Budget Estimates hearings were held over the week of 24 – 28 October 2011.

What are budget estimates?

As indicated, every year the Budget papers are referred to the Legislative Council's five General Purpose Standing Committees (GPSCs) for a wide ranging inquiry into public expenditure by every NSW government department and instrumentality. Most Australian Parliaments conduct a similar inquiry. One of the most important features of the NSW process undertaken by the Upper House since 1995 is that every Minister appears and is questioned, sometimes for up to four hours. During the hearings committee members from the Opposition, Cross bench and Government question the Ministers and Director Generals of government agencies in order to scrutinise government expenditure, as encapsulated in the Budget Estimates papers, tabled in the House on Tuesday 6 September 2011.

Unlike in some jurisdictions, the Estimates scrutiny occurs after the Budget has been delivered and is not part of the process of approval – the Appropriation Bill passed the Legislative Council on Wednesday 14 September 2011. Also, it is clearly established that there is wide latitude in questioning: members do not have to refer to individual budget line items to frame their questions.

The 2011-12 Budget Estimates resolution

The 2011-12 budget estimates inquiry was significant in two respects:

- a new Coalition government took office in March 2011, so for the first time in 16 years the roles of Government and Opposition members in the process was reversed, and
- three of the five GPSC chairs were Government members (and due to the absence on leave of Revd Nile the Chair of GPSC 1 there were in fact four government chairs during the week. Previously four out of the five chairs have been non-government members.

Each year the Legislative Council passes a resolution which establishes the rules under which the Estimates process operates and which also sets the dates for the initial week of hearings and sets aside a week for supplementary hearings. The 2011-2012 resolution was passed on 12 May 2011, although subsequently amended three times (see below) to change timetable issues. Despite the change in government, the resolution was virtually identical in its key provisions to the resolution passed in 2010-11. Key features are:

- Large portfolios are allocated up to four hours for initial hearings, with smaller portfolios receiving two hours or less
- Hearings are held between 9 until 6 each day, two at a time (except for two minor variations made with the amending of the resolution)
- All hearings are heard in public and witnesses must be Ministers or officers of departments, statutory bodies or corporations
- There is no provision for opening statements
- Questions may be lodged with the Clerk to the committee during a hearing and up to 2 days after it

has concluded, with 21 days for answers to be provided unless the committee decides otherwise

Although not covered in the resolution, each committee decides how it will allocate timing for questions, and where more than one portfolio is covered in a hearing, how time is allocated to each agency. Typically the question time allocation is determined as an equal split between the three groups – the Opposition, Cross bench and Government members.

The hearings

The initial resolution allocated days to each GPSC but did not specify times for individual Ministers. On 24 August this was amended with specific time allocations. There were two subsequent amendments: on 12 October to accommodate an availability issue for the Minister for Education; and on 21 October when three hearings on Wednesday 26 October were rescheduled to alternative times during that day to enable members of the Legislative Council to attend the funeral of former member Elaine Nile. The final hearing schedule is listed in Appendix 1.

A transcript of each hearing can be obtained by selecting the relevant portfolio via the Budget Estimates website: www.parliament.nsw.gov.au/budgetestimates

Hearings held:	25
Ministers appearing:	22
Public servants appearing:	107
Total hearing time:	59 hours 28 mins
Questions on Notice lodged:	2048

Procedural issues

An issue arose prior to the hearings regarding witnesses. The Opposition Whip requested that the Chair of Infrastructure NSW, former Premier Nick Greiner, attend as a witness at the hearing for the Premier and Minister for Western Sydney. In response to a question without notice in the Legislative Assembly on 20 October 2011. Premier O'Farrell indicated Mr Greiner would not be appearing on the basis that he was not a public servant. The request for Mr Greiner to attend was not put to a vote by GPSC 1, so it remained a request from a member rather than a committee decision, although Mr Greiner's position was the subject of considerable questioning by the opposition in the Premier and Western Sydney hearing.

Deputy Premier Andrew Stoner appeared at hearings on both the Monday (Trade and Investment, GPSC 1) and Tuesday (Regional Infrastructure and Services, GPSC 3). On the Monday he answered an opposition question about his take up of solar panels as part of the Solar Bonus Scheme by indicating an independent review by Mr Keith Mason QC regarding the transaction had been provided by the Government to the Independent Commission Against Corruption. The following day at the GPSC 3 hearing the Deputy Premier initially refused to answer questions regarding this matter on the basis that it was a private transaction when in opposition and so not relevant to the public affairs of his role as Minister for Regional Infrastructure and Services. When a point of order from a Government member objecting to the line of questioning was upheld by the Chair, Mrs Natasha Maclaren-Jones, Opposition member Mr Mick Veitch moved a dissent motion, which was defeated once the committee cleared the room and went into deliberative. When the Minister returned he proceeded to answer questions on this issue, while still maintaining his earlier position that they were outside his role as Minister and therefore outside the terms of reference of the Estimates inquiry.

During the GPSC 4 hearing into Attorney General and Justice, the Greens member Mr David Shoebridge raised the issue of "super injunctions", a subject of recent controversy in the UK (super injunctions involve a court order being obtained to prevent any reporting of the existence of an injunction obtained to prevent reporting of an issue). The issue of the parliament's role in relation to super injunctions is the subject of a current inquiry by the UK's Joint Committee on Privacy and Injunctions. During the hearing Mr Shoebridge asked general questions about super injunctions but did not raise a specific instance.

During the Police, Emergency Services and the Hunter inquiry, Minister Michael Gallacher sought clarification on whether questions from Mr Shoebridge were seeking to investigate a matter that was currently the subject of a complaint to the Police Integrity Commission. The Chair allowed questioning to proceed and Mr Shoebridge's subsequent questions were not objected to.

As in previous years, there were arguments about which Minister was responsible for answering specific questions, in particular as to whether Ministers responsible for regions (Central Coast, Illawarra, Western Sydney, Hunter, North Coast, Western NSW) should answer questions or refer them to the substantive portfolio minister. This was a particular issue in the GPSC 3 hearing for Special Minister of State and the Central Coast. In response to Opposition and Cross bench questions, Minister Chris Hartcher, referred the committee to the relevant Ministers. When Government members then asked specific questions about projects such as the construction of the Wyong police station and the Minister began providing detailed answers points of order were taken by the Opposition and Cross bench that the questions were outside the scope of the Minister's portfolio. However the points of order were not upheld and the answers proceeded.

One significant feature of the Estimates process this year was that in many, though not all, hearings the Government members chose not to ask questions in return for a shortened hearing. The reduction of the number of “Dorothy Dix” questions was warmly welcomed by committee members and staff alike!

Finally the hearings were notable for the use of the new dedicated hearing room of the NSW Parliament, the Macquarie Room. The new fit out, cameras and broadcasting system was generally well received by all members. However a glitch in the technology lead to some embarrassment when a private conversation at the end of a hearing when the room was cleared and the “on air” sign was off was broadcast to the media. While most media respected the privacy of the conversation the *Sydney Morning Herald* chose to write a humorous piece on its back page detailing the conversation.

A week of supplementary hearings has been scheduled for the week of 28 November to 2 December, although currently the only committee to resolve to hold a supplementary hearing is GPSC 5 in respect of the portfolio of Environment and Heritage. Prior to this week, answers will be received in response to questions on notice taken at the hearing and subsequent to the hearing, due 23 days from the date of the hearing.

All transcripts of the hearings and the answers, when received, are available on the Estimates website: www.parliament.nsw.gov.au/budgetestimates

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

APPENDIX 1 : 2011-2012 Budget Estimates hearing schedule**MONDAY 24 OCTOBER 2011**

TIME	PORTFOLIO	GPSC	ROOM
9.00 am - 1.00 pm	Finance and Services, the Illawarra (Pearce)	1	Macquarie
9.00 am - 11.00 am	Ageing, Disability Services (Constance)	2	Jubilee
11:10 am – 1:45 pm	Education (Piccoli)	2	Jubilee
11.15 am - 1.00 pm	Primary Industries, Small Business (Hodgkinson)	5	Waratah
2.00 pm - 3.30 pm	Trade and Investment (Stoner)	1	Macquarie
2.00 pm - 6.00 pm	Health, Medical Research (Skinner)	2	Jubilee
3:45 pm - 6.00 pm	Planning and Infrastructure (Hazzard)	1	Macquarie

TUESDAY 25 OCTOBER 2011

TIME	PORTFOLIO	GPSC	ROOM
9.00 am - 1.00 pm	Treasury (Baird)	1	Jubilee
9.00 am - 11.00 am	Regional Infrastructure and Services (Stoner)	3	Macquarie
11.15 am - 12.00 pm	The Legislature (Harwin)	3	Macquarie
12.15 pm - 1.00 pm	Special Minister of State, the Central Coast (Hartcher)	3	Macquarie
2.00 pm - 6.00 pm	Premier, Western Sydney (O'Farrell)	1	Jubilee
2.00 pm – 6.00 pm	Transport (Berejiklian)	3	Macquarie

WEDNESDAY 26 OCTOBER 2011

TIME	PORTFOLIO	GPSC	ROOM
8.30am - 9:45am	Mental Health, Healthy Lifestyles, Western NSW (Humphries)	2	Macquarie
3.00pm - 4.30pm	Citizenship and Communities, Aboriginal Affairs (Dominello)	2	Macquarie
4.45pm - 5.30pm	Sport and Recreation (Annesley)	2	Macquarie
2.00 pm - 6.00 pm	Attorney General, Justice (Smith)	4	Jubilee

THURSDAY 27 OCTOBER 2011

TIME	PORTFOLIO	GPSC	ROOM
9.00 am - 1.00 pm	Environment, Heritage (Parker)	5	Macquarie
2.00 pm - 6.00 pm	Police and Emergency Services, the Hunter (Gallacher)	4	Jubilee
2.00 pm - 3.30 pm	Local Government, the North Coast (Page)	5	Macquarie
3.45 pm - 5.45 pm	Fair Trading (Roberts)	5	Macquarie

FRIDAY 28 OCTOBER 2011

TIME	PORTFOLIO	GPSC	ROOM
9.00 am - 1.00 pm	Resources and Energy (Hartcher)	5	Macquarie
9.00 am - 1.00 pm	Tourism, Major Events, Hospitality and Racing, Arts (Souris)	3	Jubilee
2.00 pm - 4.30 pm	Family and Community Services, Women (Goward)	2	Macquarie
2.00 pm - 6.00 pm	Roads and Ports (Gay)	3	Jubilee

Transcripts of each of these hearings can be viewed at www.parliament.nsw.gov.au/budgetestimates