

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



*Volume 55/48*

*Sitting period  
21 to 23 May 2013*

*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](http://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](mailto:council@parliament.nsw.gov.au).

### Overview

This sitting week saw the House finalise consideration of four Government bills, and begin debate on a fifth. Seven new Government bills were also introduced. Private members' business was taken up with the finalisation of debate on the Rights of the Terminally Ill Bill introduced by Ms Faehrmann in the first sitting week in May.

On Thursday a joint sitting was held to elect a new member, Mr Ernest Wong, following the resignation of the Hon Eric Roozendaal on 17 May 2013.

This week also saw the General Purpose Standing Committees' Budget Estimates 2013-2014 hearing schedule agreed to, the details of which can be found [here](#).

The House will next meet on Tuesday 28 May 2013.

### Vacancy in the Council

On 17 May 2013, the Hon Eric Roozendaal tendered his resignation as a member of the Legislative Council to Her Excellency the Governor.

A joint sitting of the Legislative Council and Legislative Assembly was held on 23 May 2013 to fill the vacancy. Mr Ernest Wong was elected to fill the vacated seat.

### Government business

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

#### **Bail Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* In June 2011 the Government provided the Law Reform Commission with terms of reference for a review of the *Bail Act 1978* and other bail laws in New South Wales. The Commission's report on the review was tabled in both Houses of Parliament on 13 June 2012. The Government published its response to the Commission's review in November 2012. The bill has been drafted in accordance with the Government response.

The bill repeals and replaces the *Bail Act 1978* and sets out a new scheme for the making of bail decisions based on unacceptable risk, and applies that test to all offences, replacing the current scheme of some offence-based presumptions contained in the existing Act.

*Proceedings:* The bill was received from the Legislative Assembly on 21 May 2013 and read a first time, with debate on the second reading of the bill commencing later in the day. In his second reading speech, the Minister (Mr Gallacher) said that the Government was grateful to the Law Reform Commission for its report which had proved invaluable in laying the groundwork for the bill. The Minister argued that the simplified test should result in bail decisions that better achieve the goals of protection of the community while appropriately safeguarding the rights of accused persons, and that the bill was the subject of targeted consultation with the heads of jurisdiction, key legal stakeholders and police. The Government expects the new Act to commence operation approximately 12 months from the date of its assent, in order to allow for the implementation of procedural and technical changes and an education and training program for police, legal practitioners and courts.

Debate was adjourned at the conclusion of the Minister's speech, and resumed the following day. The Opposition did not oppose the bill, noting that the cumulative effect of thirty years of amendments had made the current Act complex and that prior to the last election both major political parties had made a commitment to fundamental reform of bail laws. While noting that the bill is an improvement on the current law, the Opposition argued that the bill falls short of the breadth of reform that was recommended in the Law Reform Commission report and noted that the bill was not drafted with the goal of reducing the prison remand population in mind. Similar concerns were expressed by the Greens, while also acknowledging the bill as an improvement on the current law. The Christian Democratic Party supported the bill, while noting that it would maintain a watching brief on its operational effectiveness once made into law.

In reply, the Minister said the Government was conscious of the size of the prison remand population and will continue to monitor it once the new law was in place, but also noted that the bill, by restricting bail conditions that can be imposed to only those that are necessary to mitigate an unacceptable risk, should have an effect on the prison remand population.

The second reading was agreed to.

In the committee stage, the Greens moved a number of amendments that sought to: reinstate conditions of custody as a matter to be considered when determining unacceptable risk; remove the ability to refuse bail for an offence for which there is a right of release when the accused has previously breached a bail condition for the offence; and to insert a clarification that the onus of proof for establishing the existence of an unacceptable risk lies with the prosecution. Despite the support of the Opposition, the amendments were negatived on the voices. The Greens also moved an amendment that sought to provide all accused persons the right to a second bail application and to remove restrictions on the number of bail applications available to juveniles. The amendment was negatived (Division 5:32).

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

### **Statutory and Other Offices Remuneration Amendment (Judicial and Other Office Holders) Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Statutory and Other Offices Remuneration Act 1975* to require the Statutory and Other Offices Remuneration Tribunal to give effect to certain government policies concerning the remuneration of judicial and other office holders.

*Proceedings:* Debate on the second reading of the bill commenced on 22 May 2013. In his second reading speech, the Parliamentary Secretary (Mr Mason-Cox) indicated that the Government's wages policy is about delivering fair wage increases to the public sector. Currently, however, the Statutory and Other Offices Remuneration Tribunal is not required to apply the wages policy when it determines the remuneration of judicial officers. The Parliamentary Secretary stated that it is appropriate to extend the wages policy to judicial officers who are also paid from the public purse.

The Opposition opposed the bill for two primary reasons: firstly, that Government fixation of the wages of judicial and other office holders trespasses on the separation of powers and undermines the independence of the judiciary; and second, all persons should have access to independent wage fixing by an independent and impartial umpire.

The Greens spoke in strong opposition to wage caps in the public sector, including statutory office holders, but stated they would not oppose the bill. They felt that including influential groups such as judges in the Government's wages policy would help lead to its demise.

The Christian Democratic Party supported the bill primarily for reasons of consistency so wages policy regarding salary determinations will be the same for the public service and all statutory office holders.

The second reading was agreed to on Division (26:12).

Speaking to the third reading of the bill, the Opposition reiterated the view that the bill undermines the integrity and independence of the judiciary. The third reading was agreed to on Division (26:12) and the bill was returned to the Assembly without amendment.

Later that day a Protest signed by Mr Searle, the Deputy Leader of the Opposition, against the passing of the bill was forwarded to the Governor by the President. The Protest stated that the bill will give unfettered power to the Executive Government over the judiciary in connection with remuneration and other conditions, involves an historic diminution of conditions for judges and magistrates, and undermines the independence of the judiciary and public confidence in the institution of the judiciary.

### **Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Crimes (Domestic and Personal Violence) Act 2007* to facilitate the sharing of personal information and health information about victims and perpetrators of domestic violence collected by domestic violence support services for the purposes of providing domestic violence support to those victims.

*Proceedings:* Debate on the second reading of the bill commenced on 22 May 2013. In his second reading speech, the Parliamentary Secretary (Mr Clarke) noted that in November 2012 the Government launched the NSW Domestic Violence Justice Strategy which aims to make the criminal justice system more responsive to the immediate needs of people who experience domestic violence. The Parliamentary Secretary said that recommendations made by the NSW Auditor-General, the NSW and Australian Law Reform Commissions and the NSW Legislative Council Standing Committee on Social Issues inquiry into domestic violence trends and Issues have been incorporated into the Strategy. The amendments in the bill, which will remove restrictions that could limit or prevent inter-agency collaboration aimed at responding appropriately to the needs of victims of domestic violence, are a key plank of the implementation of the Strategy.

The Opposition supported the bill but cautioned that for the bill to have any practical effect the Government needs to provide resources and implement other recommendations by the Standing Committee on Social Issues. The Greens indicated their concern over the provision in the bill providing for the capacity to override the consent of an alleged victim regarding information sharing, arguing that the benefits of information sharing without consent will, in most cases, not outweigh the associated risks. The Greens foreshadowed amendments to address their concerns.

Proceedings were interrupted for the dinner break, following which the second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

### **Baptist Churches of New South Wales Property Trust Amendment Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Baptist Churches of New South Wales Property Trust Act 1984* to implement a more efficient and effective means by which the Baptist Churches of New South Wales Property Trust deals with property that it holds on trust for congregations.

*Proceedings:* Debate on the second reading of the bill commenced on 22 May 2013. In his second reading speech, the Parliamentary Secretary (Mr Clarke) indicated that the bill amongst other things will allow a broader range of people to be directors of corporations that may benefit from church trust property while providing further protections for small congregations in relation to such trust property. The Parliamentary Secretary said that the amendments, which are not major in nature, were formally requested by the Baptist Union after an extensive consultation period with the Baptist Churches community.

The Opposition, Christian Democratic Party and Greens all supported the bill, noting that it was the most recent in a number of bills that have facilitated the management of property by various churches.

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

### **Local Government Amendment (Early Intervention) Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill makes various amendments to the *Local Government Act 1993* to put in place a more effective framework for addressing poor performance and accountability issues in local councils.

*Proceedings:* Debate on the second reading of the bill commenced on 22 May 2013. As his second reading speech was in the same terms as that given in the Lower House by the Minister for Local Government, the Parliamentary Secretary (Mr Ajaka) referred members to that speech. That speech indicated that the powers currently available under the *Local Government Act* for dealing with poor performance in local councils are limited and unwieldy. The bill provides the Minister with stronger powers to gather information from councils; new powers to issue a performance improvement order; new powers to suspend a council; and changes to existing powers of investigation and public inquiry. The speech concluded that the focus of the proposed intervention framework is on deterrence and improvement and the measure of its success will be that the powers conferred on the Minister will be exercised with decreasing frequency.

The Opposition were critical of the level of consultation prior to the bill's introduction in the Lower House, and

noted that it still held a number of concerns regarding the bill, particularly the potential for the accountability of councils being directed more towards the Minister than electors. The Opposition stated that they expected the Government to engage in discussion prior to the bill proceeding to the committee stage. The Greens agreed with the thrust of the bill and stated that there will be circumstances where the powers provided for in the bill will be required, but argued that the bill as drafted does not have adequate checks and balances on these new Ministerial powers. The Greens foreshadowed a number of amendments that they intended to move in the committee stage.

Debate was adjourned until the next sitting day.

### **Victims Rights and Support Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill repeals the *Victims Support and Rehabilitation Act 1996* and replaces the statutory scheme under that Act regarding compensation for victims of crimes of violence with a new Victims Support Scheme, provides for a Commissioner of Victims Rights and repeals and re-enacts, with minor modifications, provisions of the *Victims Rights Act 1996*.

*Proceedings:* The bill was received from the Legislative Assembly on 22 May 2013 and read a first time. The second reading was set down for a later hour of the sitting.

### **Education Amendment (School Providers for Overseas Students) Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Education Act 1990* to enable the Board of Studies to continue approving and regulating providers who provide courses at schools to overseas students, following the repeal of the transitional arrangements under the *Vocational Education and Training (Commonwealth Powers) (Transitional) Regulation 2011* which is to be repealed at the end of 30 June 2013.

*Proceedings:* The bill was received from the Legislative Assembly on 22 May 2013 and read a first time. The second reading was set down for a later hour of the sitting.

### **Marine Parks Amendment (Moratorium) Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* Currently, the *Marine Parks Act 1997* imposes a moratorium on the creation of new marine parks and the alteration or creation of sanctuary zones within existing marine parks. The moratorium was imposed for a period of 5 years on the commencement of the *Marine Parks Amendment (Moratorium) Act 2011*. During the moratorium period, the Marine Parks Authority must not conduct a review of a zoning plan for a marine park.

The bill amends the *Marine Parks Act 1997* to allow regulations to be made within the moratorium period to alter the areas of existing sanctuary zones, or to classify areas as new sanctuary zones, to provide for reviews of zoning plans at the direction of the relevant Ministers

and to allow the Authority to conduct reviews of, or take other action in relation to, zoning plans.

*Proceedings:* The bill was received from the Legislative Assembly on 22 May 2013 and read a first time. The second reading was set down for a later hour of the sitting.

### **Gaming Machines Amendment (Multi-terminal Gaming Machines in Clubs) Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Gaming Machines Act 2001* to allow clubs that hold no more than 33 gaming machine entitlements to keep, as part of the total number of approved gaming machines, up to five player terminals that form part of multi-terminal gaming machines. These are gaming machines that are designed to be played by more than one player at a time.

*Proceedings:* The bill was received from the Legislative Assembly on 22 May 2013 and read a first time. The second reading was set down the next sitting day.

### **State Owned Corporations Legislation Amendment (Staff Directors) Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *State Owned Corporations Act 1989* and other legislation relating to State owned corporations by removing the mandatory requirement for directors to be appointed to fill staff and union positions.

*Proceedings:* The bill was received from the Legislative Assembly on 22 May 2013 and read a first time. The second reading was set down the next sitting day.

### **Motor Accident Injuries Amendment Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Motor Accidents Compensation Act 1999* by establishing a new scheme for the payment by insurers of no-fault statutory benefits for motor accidents, ensures that the majority of the money paid out of the motor accidents scheme goes to people injured by motor vehicles, improves the claims handling and dispute resolution process and strengthens the powers of the Motor Accidents Authority in premium setting and claims handling. The bill also aims to reduce premiums for motorists.

*Proceedings:* The bill was received from the Legislative Assembly on 23 May 2013 and read a first time. The second reading was set down the next sitting day.

### **Independent Commission Against Corruption and Other Legislation Amendment Bill 2013**

*Summary:* The bill amends the *Independent Commission Against Corruption Act 1988* and other Acts to enable certain information, including criminal intelligence, to be requested, disclosed and used for vetting applicants for positions with the Independent Commission Against Corruption, the New South Wales Crime Commission, the NSW Police Force, and the Police Integrity Commission.

*Proceedings:* The bill was received from the Legislative Assembly on 23 May 2013 and read a first time. The second reading was set down the next sitting day.

## **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*

### **Rights of the Terminally Ill Bill 2013 (Ms Faehrmann, The Greens)**

The bill originated in the Legislative Council.

*Summary:* The bill seeks to establish a legal framework for terminally ill persons to request and receive assistance to end their lives voluntarily. Under the framework, terminally ill persons may be assisted by their medical practitioners to administer a substance to themselves. The bill provides protection for persons providing such assistance and establishes safeguards against possible abuse of the scheme.

*Proceedings:* Debate on the second reading of the bill resumed on 23 May 2013 from 9 May 2013 (see the previous edition of *House in Review* for earlier debate). Members from both sides of the debate continued to recount personal stories of family members and friends who have suffered from terminal illnesses.

The Christian Democratic Party, some members of the Government and some members of the Opposition continued to speak in opposition to the bill with some members expressing concerns that the safeguards proposed in the bill are not sufficient to allay concerns based on the operation of similar legislation in other countries.

The Greens and some members of the Opposition spoke in support of the bill arguing that it is a humane reform that is necessary to allow people to choose to die with dignity, moves us towards a society that does not tolerate suffering and allows individuals a greater degree of autonomy over the manner of their death.

During debate, an Opposition member moved an amendment to the second reading motion to refer the bill to General Purpose Standing Committee No. 4 for inquiry and report. It is understood that members for all parties had a conscience vote on the bill. At the conclusion of debate the amendment was defeated on division (11:29). The second reading was subsequently negated (Division 13:26).

### *Motions taken as formal business*

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

- (1) Australian Egyptian Council Forum (Mr Clarke)
- (2) Reception for 87th birthday of Her Majesty Queen Elizabeth II (Mr Clarke)
- (3) Australian Garden Show Sydney (Ms Ficarra)

- (4) Australian Coptic Movement Association (Mr Clarke)
- (5) 2013 Press Freedom Media Dinner (Mr Moselmane)
- (6) Vietnamese vigil night (Mr Clarke)
- (7) National Palliative Care Week (Mr Donnelly)
- (8) 40th anniversary of the Aquarius Festival in Nimbin (Ms Barham)
- (9) Miss Lebanon Australia Beauty Pageant (Mr Ajaka)
- (10) ANZAC Day luncheon at the Cyprus Club, Stanmore (Mr Clarke)
- (11) Pak Link Magazine (Mr Moselmane)
- (12) National Netball Championships (Ms Ficarra)
- (13) 192nd Anniversary of the Greek Declaration of Independence (Mr Clarke)
- (14) 'Triple Zero Kids Challenge' game (Mr Clarke)
- (15) Australian Macedonian Business Awards (Mr Moselmane)
- (16) 2013 NSW Seniors Week (Mrs Maclaren-Jones)
- (17) Health funding (Mrs Maclaren-Jones)
- (18) Cooma Public School (Mr Whan)
- (19) Vietnamese Aged Care Association (Ms Voltz on behalf of Ms Fazio)
- (20) Hellenic Women of Sydney (Mr Clarke)
- (21) The Global City Forum (Ms Cotsis).

### Petitions received

- (1) CountryLink – 667 signatures (irregular, presented Ms Sharpe).
- (2) RailCorp review – 84 signatures (irregular, presented Ms Sharpe).
- (3) Public housing rent – 1,647 signatures (irregular, presented Ms Sharpe); 296 signatures (irregular, presented Ms Sharpe).
- (4) Parenting payments – 264 signatures (presented Ms Barham).

### Debate on budget estimates

The House concluded the take-note debate on the Budget Estimates and related papers for the financial year 2012-2013.

### Committee activities

#### *Committee reference*

**Budget Estimates:** Mr Gay moved a motion that, upon the tabling of the Budget Estimates and related papers, General Purpose Standing Committees inquire into and report on the Budget Estimates and related papers for the financial year 2013-2014 and the schedule for those initial hearings. Ms Fazio moved an amendment to the motion to make some changes to the initial timetable.

The amendment was negated and the original motion agreed to.

The initial round of hearings will take place in the week beginning Monday 15 August 2013 and the following week on Monday 19 and Friday 23 August 2013. The initial round of supplementary hearings will take place in the week beginning 8 October 2013. Please refer to the website for more information.

#### *Committee reports tabled*

**Legislation Review Committee:** Legislation Review Digest No. 37/55 of 2013, dated 21 May 2013.

**General Purpose Standing Committee No. 5:** Report No. 37 entitled 'Management of public land in New South Wales', dated May 2013.

**General Purpose Standing Committee No. 4:** Report No. 27 entitled 'The use of cannabis for medical purposes', dated May 2013.

#### *Committee reports debated*

**Joint Standing Committee on Electoral Matters:** The House concluded the take-note debate on Report No. 2/55 entitled 'Administration of the 2011 NSW election and related matters', dated December 2012.

**Joint Standing Committee on Road Safety (Staysafe):** The House concluded the take-note debate on Report No. 2/55 entitled 'Report on driver and road user distraction', dated March 2013.

**Select Committee on the Partial Defence of Provocation:** The House continued the take-note debate on the report entitled 'The partial defence of provocation', dated April 2013.

#### *Government response*

**Joint Standing Committee on Electoral Matters:** The House received a response to Report No 1/55 entitled 'Inquiry into administrative funding for minor parties', tabled 15 November 2012.

### Inquiry activities

#### **Racial vilification law in NSW**

The Standing Committee on Law and Justice has concluded its evidence gathering as part of its inquiry into racial vilification law in NSW and is intending to report in June 2013.

#### **Drug and alcohol treatment**

General Purpose Standing Committee No. 2 has received 52 submissions to its inquiry into the effectiveness of current drug and alcohol policies with respect to deterrence, treatment and rehabilitation. The Committee has held three hearings, with a fourth hearing to be held on 27 May 2013. The Committee recently made site visits to drug and alcohol treatment centres in New South Wales and Western Australia, with a further site visit scheduled for 12 June 2013.

### Closure or downsizing of Corrective Services New South Wales facilities

The Select Committee into the Closure or Downsizing of Corrective Services New South Wales Facilities has concluded its evidence gathering and is currently in the process of preparing its report, which will be tabled by 14 June 2013.

### Same sex marriage law in NSW

The Standing Committee on Social Issues is inquiring into a proposed same sex marriage law in New South Wales. The Committee has concluded its hearings and is scheduled to report in July 2013.

### Strategies to reduce alcohol abuse among young people

The Standing Committee on Social Issues has received 52 submissions to its inquiry into strategies to reduce alcohol abuse among young people. The Committee held hearings on 29 April and 6 May 2013 and will hold a further half day hearing on 17 June 2013.

### Adequacy of water storages in NSW

The Standing Committee on State Development is finalising its inquiry into the adequacy of water storages in New South Wales. The final hearing was held on 3 May 2013, with the Committee intending to report by the end of June 2013.

### Tourism in local communities

In May 2013, the House referred a new inquiry into tourism in local communities to General Purpose Standing Committee No. 4. Submissions are currently being sought by 28 June 2013.

## Report tabled

**Inspector of Independent Commission Against Corruption:** Report entitled 'Report of an audit into the exercise by the Independent Commission Against Corruption of its powers under sections 21, 22, 23 & 35 of the *Independent Commission Against Corruption Act 1988*', dated April 2013.

## Adjournment debate

### Tuesday 21 May 2013

Taree Community Cabinet meeting (Miss Gardiner); Tribute to Jim Bond (Mr Veitch); Armenian genocide (Revd Mr Nile); Drought assistance (Mr Whan); Opal mining regulation (Mr Buckingham); Australian-Chinese relations (Mr Mason-Cox).

### Wednesday 22 May 2013

Women in sport (Ms Voltz); School bus safety (Mr Green); Multicultural media (Mr Moselmane); Drugs in sport (Mr Blair); Euthanasia parliamentary briefing (Ms Faehrmann); Australia's Biggest Morning Tea (Mrs Maclaren-Jones).

### Thursday 23 May 2013

Taxi transport subsidy scheme (Ms Barham); Live cattle exports (Mr MacDonald); Religious freedom (Mr Moselmane); Animal rights (Mr Brown); Gender equality (Ms Sharpe); Tribute to Marcia Donald (Mr Clarke); Coalmining industry (Mr Foley).

## 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](mailto:stephen.frappell@parliament.nsw.gov.au).

All responses will be kept strictly confidential.



David Blunt  
Clerk of the Parliaments