

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## HOUSE IN REVIEW



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17 to 19 September 2013



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](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

The highlight of the week was debate on Thursday on a motion commemorating 25 years of the Legislative Council's modern committee system in lieu of Private Member's Business on Thursday. In addition, the Legislative Council hosted the C25 Seminar on Friday which celebrated and reflected upon the valuable contribution upper house committees have made to the effective governance of New South Wales.

The House also debated four Government bills, all of which were passed by the House and returned to the Assembly. Currently, there are four Government bills standing on the Notice Paper for next week.

### Motion marking 25 years of the Committee system in the Legislative Council

On Thursday, the House debated a commemorative motion to mark the 25th anniversary of the modern committee system in the Legislative Council. The motion noted that the committee system began in 1988 with the establishment of the Standing Committees on Social Issues and State Development followed by the establishment of the Standing Committee on Law and Justice in 1995 and the General Purpose Standing Committees in 1997. It also noted the significant contribution to the committee system made by former and current members of the House, along with the valuable contribution of individuals and representatives of community organisations who have participated in committee inquiries. The motion concluded by noting that the work of committees has continued, and will continue, to enable the Legislative Council to effectively hold the Government to account, allow for community engagement in the parliamentary process, and develop sound policy for New South Wales.

The motion was enthusiastically supported by all members who spoke to it. Many members emphasised the contribution of committees to effective governance and the enhancement of parliamentary democracy in New South Wales. Some members reminisced about the achievements of some notable inquires, while others articulated visions for how committees can continue their effectiveness as conduits for policy development and

executive accountability. In addition, many members paid tribute to the Hon Lionel Murphy and Mr Jim Odgers, former Clerk of the Senate, who are acknowledged to have been the architects of the Senate committee system, on which the Legislative Council system is based. A number of former Council members and Council Clerks, who were present in the President's Gallery and included the Hon Elisabeth Kirkby, the Hon Max Willis, the Hon Lloyd Lange, Mr John Evans and Mr Les Jeckeln, were also acknowledged for their roles in establishing the Council committee system and special reference was made to the *Select Committee on Standing Committees of the Legislative Council*, established in 1986 to investigate the establishment of a system of New South Wales Upper House committees. All members warmly noted the role of parliamentary officers in helping facilitate inquires and the committee process. An amendment was subsequently moved to the motion to acknowledge and thank committee staff for their hard work and professionalism in support of the committee system.

The motion and amendment were agreed to.

### Government business

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

### Drugs and Poisons Legislation Amendment (New Psychoactive and Other Substances) Bill 2013

The bill originated in the Legislative Assembly.

*Summary:* The bill prohibits the supply, manufacture and advertising of synthetic drugs or psychoactive substances in New South Wales. The bill amends the *Poisons and Therapeutic Goods Act 1966* and the *Drug Misuse and Trafficking Act 1985* to provide for a ninth schedule to the Poisons List containing the substances defined as psychoactive drugs which is consistent with the Commonwealth Poisons Standard. *The Drug Misuse and Trafficking Act 1985* is also amended to prohibit the possession, manufacture, production, supply and advertising of Schedule 9 substances other than those that are authorised under the *Poisons and Therapeutic Goods*

*Act 1966.* The bill also provides penalties of imprisonment up to two years, for manufacture or supply, and a year for possession of Schedule 9 substances.

*Proceedings:* The bill was received from the Legislative Assembly on 18 September 2013 and read a first time. The second reading speech of the Parliamentary Secretary (Mr Mason-Cox) was incorporated into Hansard. The speech stated that the bill will ban all psychoactive substances as well as those that are yet to be developed. The speech also noted that existing laws already prohibiting specific drugs based on their chemical compound would be retained so that the Government response to emerging drugs can be escalated once specific psychoactive substances are identified and their associated harms and criminality assessed.

The lead speakers for the Opposition and the Christian Democratic Party supported the bill, both noting that it had been developed in response to the recommendations of a Legislative Assembly committee inquiry into synthetic drugs which highlighted the need to reform the law to more effectively prohibit psychoactive substances.

The Greens opposed the bill positing that it is impossible to totally ban psychoactive substances. The Greens argued that the bill had shifted the regulatory goalposts and that chemists would respond by manufacturing substances not captured by the bill. The Greens stated psychoactive substances smokeable or injectable would be banned but not those that are edible. The Greens advocated the system employed in New Zealand whereby psychoactive substances are regulated instead of banned.

Two other arguments against the bill were also put forward. Firstly, that you cannot prevent people from seeking illicit drugs and it would therefore be better to regulate psychoactive substances so that people knew what they taking. Secondly, that the bill may have unintended consequences, specifically that growing plants such as cacti which contain mescaline, a naturally occurring psychedelic alkaloid, may be prohibited.

In reply, the Parliamentary Secretary stated that food products with psychoactive substances are captured in the bill and that because cacti are not sold for human consumption they would not be prohibited. The Parliamentary Secretary also noted that in New Zealand, to date, no psychoactive substances have been brought to market because none have been deemed safe. In addition, the Parliamentary Secretary stated that the Government's approach to psychoactive substances was supported by New South Wales police, doctors, paramedics and community workers.

The second reading of the bill was agreed to on division (31:5). The third reading was agreed to and the bill was returned to the Assembly without amendment.

### **Heavy Vehicle (Adoption of National Law) Amendment Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Heavy Vehicle (Adoption of National Law) Act 2013* to make further provision for the adoption of the Heavy Vehicle National Law in New South Wales; to provide for the terms of the Heavy

Vehicle (Adoption of National Law) Regulation 2013; and to repeal and amend certain other legislation.

*Proceedings:* The bill was received from the Legislative Assembly on 17 September 2013 and read a first time. The second reading was moved by Minister Gay who stated that the bill sets out further legislative changes to give effect to the Heavy Vehicle National Law in New South Wales. The Minister also noted that the Heavy Vehicle National Law represented part of the COAG National Partnership Agreement to reduce cross-jurisdiction business compliance costs by streamlining safety and access regulation for heavy vehicles over 4.5 tonnes. A key reform of the Heavy Vehicle National Law is the establishment of the National Heavy Vehicle Regulator, Australia's first national, independent heavy vehicle regulator – the Minister noted that New South Wales had allocated over \$10 million to establish the regulator and that it had commenced operations this financial year.

The Opposition did not oppose the bill, noting that it is designed to improve heavy vehicle regulation nationally. However, the Opposition did note that the bill was amending legislation passed only three months earlier because it was inconsistent with the national law. The Opposition also indicated its willingness for the National Heavy Vehicle Regulator, once it becomes a fully functioning regulatory body, to review the bill to ensure it aligns with national developments.

The Greens supported the bill, noting the work health and safety risks associated with the trucking industry and emphasising the need to balance safety and productivity.

Mr Mason-Cox (Parliamentary Secretary) informed the House that the bill had been amended in the Legislative Assembly to align it with the national law with regard to fatigue management. The amendment increased the maximum amount of time a driver could work in a 24 hour period from 15 hours to 15½ hours, as per the maximum driving time allowable in Victoria, Queensland and South Australia. The Parliamentary Secretary also noted that as New South Wales represents 60 per cent of the national road freight task and thus experiences more truck traffic than any other jurisdiction, the Government would be working with the National Heavy Vehicle Regulator to ensure that fatigue is effectively managed.

Debate was interrupted for Questions, and resumed the following day.

The Christian Democratic Party supported the bill, arguing in favour of its objective to promote safety and productivity in the heavy vehicle industry.

In reply, the Minister thanked those stakeholders consulted in the bill's development and stated that the bill would reduce compliance costs in the heavy vehicle industry.

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

## Entertainment Industry Bill 2013

The bill originated in the Legislative Assembly.

*Summary:* The bill repeals and replaces the *Entertainment Industry Act 1989* to regulate the entertainment industry and provide protections for performers.

*Proceedings:* Debate in the committee stage commenced on 18 September 2013 from 11 September 2013 (see Vol 55/55 of *House in Review* for earlier debate).

The Opposition moved a series of amendments to the bill.

The Opposition successfully moved amendments, carried on the voices, to transfer the power to resolve disputes between performers and entertainment industry representatives from the Local Court to the Industrial Court. The Opposition also successfully moved an amendment, carried on the voices, to insert a dispute resolution mechanism into the bill under the auspices of the Industrial Court.

The Opposition unsuccessfully moved further amendments to: extend the cooling-off period for entertainment industry managerial agreements during which the performer may terminate the agreement; extend the period for which performer representatives and venue representatives keep their business records; require that an entertainment industry hirer who is required to make a payment to a performer for a performance must make that payment within one month; mandate that the Secretary of the Treasury keep an information register recording offences under the proposed Act; increase the time under which a prosecution may be brought under the proposed Act; and make small additions to the wording of the proposed Act's code of conduct. All amendments were defeated on the voices except for the amendment requiring payment within one month which was defeated on division (18:21).

The Greens unsuccessfully moved an amendment to limit the amount payable to a performer representative by a performer, as prescribed by the regulations, to not exceed 10 per cent of the remuneration received by the performer.

The bill was reported to the House with amendments, read a third time and returned to the Assembly. The Assembly agreed to the amended bill.

## Police Integrity Commission and Independent Commission Against Corruption Legislation Amendment (Inspectors) Bill 2013

The bill originated in the Legislative Assembly.

*Summary:* The bill enables the Governor to appoint an Assistant Inspector for the Police Integrity Commission (PIC) and an Assistant Inspector for the Independent Commission Against Corruption (ICAC); enables a person to simultaneously hold office as Inspector or Assistant Inspector of the PIC and as Inspector or Assistant Inspector of the ICAC; and makes related amendments to the *Police Integrity Commission Act 1996* and the *Public Interest Disclosures Act 1994* to ensure that the Ombudsman, instead of the ICAC, is responsible for dealing with complaints and carrying out investigations

about the conduct of the Inspector of the PIC or the officers of the PIC Inspector.

*Proceedings:* The bill was received from the Legislative Assembly on 18 September 2013 and read a first time. The second reading speech of the Parliamentary Secretary (Mr Clarke) was incorporated into Hansard. The speech stated that the bill will allow for the two part-time positions of the Inspector of the PIC and the ICAC to be performed by the same person. It also noted that the bill does not abolish or merge the two positions, rather it merely removes the impediments to one person holding both positions, should the government of the day decide it is appropriate to recommend a dual appointment.

The Opposition did not oppose the bill citing its purpose is to uphold the importance of the anticorruption bodies and improve their efficiency and efficacy. The Opposition also noted that Parliament retains the right of veto over the appointments of the Inspector of the PIC and the ICAC.

The Greens did not support the bill on the basis that conflating the positions of Inspector of the PIC and Inspector of the ICAC would not be a good outcome because the jurisdiction of the PIC and the ICAC are distinct. The Greens also cited a legal dispute between the PIC and the Crime Commission, in which the Crime Commission fought oversight by the PIC, and argued that for this reason it is important to maintain individual independent oversight of the PIC and the ICAC in the event of any dispute between the two agencies.

The Christian Democratic Party supported the bill but sought an assurance from the Parliamentary Secretary that the Inspectors of the PIC and the ICAC had been consulted and were comfortable with the bill's proposed amendments.

In reply, Parliamentary Secretary noted that the Inspectors of the PIC and the ICAC had been consulted and had not raised any concerns regarding the bill.

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

## Liquor Amendment (Kings Cross Plan of Management) Bill 2013

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Liquor Act 2007* and other legislation to implement the second stage of the Government's Kings Cross management plan – the first stage of the plan was implemented by the *Liquor Amendment (Kings Cross Plan of Management) Act 2012*. The bill provides for banning orders that will prohibit certain persons from entering licensed premises in Kings Cross; provides for the ID scanning of all patrons who enter high risk venues in Kings Cross so that banned persons are refused entry; and enables the Independent Liquor and Gaming Authority to suspend or revoke the RSA competency card held by a person employed in licensed premises in Kings Cross in certain circumstances. The bill also specifies the application requirements for a small bar licence in New South Wales.

*Proceedings:* The bill was received from the Legislative Assembly on 18 September 2013 and read a first time. The second reading was set down for a later hour of the sitting.

### **Firearms and Criminal Groups Legislation Amendment Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Firearms Act 1996* (the Act) to empower police officers to enter and search premises occupied by a person, subject to a firearms prohibition order, in order to determine whether the person is complying with the order; prohibit such persons from acquiring or possessing firearms, firearm parts or ammunition and from residing at or attending premises where firearms are present; modify existing offences regarding the sale of firearms, firearm parts and ammunition; and provide that any person who attempts to commit an offence under the Act is liable to the penalty for that offence. In addition, the bill amends the *Restricted Premises Act 1943* to increase penalties for offences relating to reputed criminals attending premises declared 'disorderly' by the Courts under that Act, and to allow police to search such premises for firearms and other weapons. The bill also amends the *Crime Commission Act 2012* to enable the Crime Commission to investigate matters regarding the criminal activities of a specified criminal group without the need for the matter to relate specific offences or individuals.

*Proceedings:* The bill was received from the Legislative Assembly on 18 September 2013 and read a first time. The second reading was set down for a later hour of the sitting.

### **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.

#### *Motion*

### **Reference to General Purpose Standing Committee No. 3 (Ms Sharpe, Australian Labor Party)**

*Summary:* The motion sought to refer the potential impact of the removal or reduction of the train station access fee at Sydney Domestic and International Airports to General Purpose Standing Committee No. 3 for inquiry and report.

*Proceedings:* Standing orders were suspended on 18 September 2013 bring on the motion (Division 20:19).

Ms Sharpe argued that the Government needed to improve public transport to Sydney Airport and that an inquiry was needed to consider the strategies required to increase passenger frequency on the airport train line.

The Government opposed the motion arguing that the former government had had ample opportunity to remove the train station access fees at the Sydney Domestic and International Airports but had not done so. The Government added that it had allocated almost \$30 million in the 2013-14 budget to address traffic

congestion within Port Botany and the Sydney Airport precinct.

The Greens supported the motion arguing that station access fees made it too expensive for many in the community to travel on the airport train line.

The motion was agreed to (Division 20:19).

#### *Motions taken as formal business*

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

- (1) Cleaning 'blitz' on Sydney trains (Mrs Maclaren-Jones)
- (2) Revitalisation of Aboriginal Housing Office (Mrs Maclaren-Jones)
- (3) World Overdose Awareness Day (Ms Sharpe)
- (4) Dementia Awareness Week (Ms Barham)
- (5) South Sydney Rabbitoh's Souths Cares programs (Ms Ficarra)
- (6) South Asian Muslim Association of Australia (Ms Fazio)
- (7) Australasian Hellenic Educational Progressive Association (Mr Clarke)
- (8) Foster Care Week (Ms Barham)
- (9) Shrine of the Holy Innocents and Garden of the Immaculate (Mr Clarke)
- (10) Yaru Water (Ms Fazio)
- (11) Penrith Panthers 2013 Awards Dinner (Ms Ficarra)
- (12) 72nd anniversary of mass deportation of citizens of the Baltic States (Mr Clarke)
- (13) Mangalorean Catholic Association of Sydney (Mr Clarke)
- (14) Coptic New Year (Mr Clarke)
- (15) Coptic prayer vigil for peace in Egypt (Mr Clarke)
- (16) 38<sup>th</sup> anniversary of Independence Day, Papua New Guinea (Mr Lynn)
- (17) Dr Thistle Harris AM and Mr David Stead (Mr Shoebridge)
- (18) 66th Annual Police Association of NSW Commissioned Officers' Dinner
- (19) Select committee into the agistment of horses at Yaralla Estate – Extension of reporting date.

### **Orders for papers**

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

#### *Return to order*

- (1) **Yaralla Estate – Further Order:** a further document was received on 18 September 2013. The document was in addition to the Yaralla

Estate – Further Order submitted on 12 September 2013.

- (2) **Department of Family and Community Services caseworker numbers:** received 19 September 2013; 7 public boxes.

## Reports tabled

**Parliamentary Ethics Adviser:** report entitled ‘Annual report of the Parliamentary Ethics Adviser for year ended 30 June 2013’, September 2013.

**Independent Commission Against Corruption:** report entitled ‘Annual report of the Inspector of the Independent Commission Against Corruption for year ended 30 June 2013’, September 2013.

## Committee activities

**Note:** Committee activities includes committee references, reports tabled, debate on committee reports, government responses received and any other significant committee activity in the House. Committee activity as part of a current inquiry is summarised in the following section entitled ‘Inquiry activities’.

### *Committee reference*

**General Purpose Standing Committee No. 3:** The House referred to the Committee an inquiry into the potential impact of removal or reduction of the station access fee at Sydney Domestic and International Airports. See further discussion under private members’ business.

### *Extension of reporting date*

**Select Committee on the agistment of horses at Yaralla Estate:** The reporting date for the Committee’s inquiry was extended to 24 October 2013.

### *Committee report tabled*

**Legislation Review Committee:** ‘Legislation Review Digest No. 44/55 of 2013’, dated 17 September 2013.

### *Committee reports debated*

**Standing Committee on State Development:** The House concluded the take-note debate on Report No. 37 entitled ‘Adequacy of water storages in New South Wales’, dated June 2013.

**Standing Committee on Social Issues:** The House continued the take-note debate on Report No. 47 of the Standing Committee on Social Issues entitled ‘Same sex marriage law in New South Wales’, dated July 2013.

## Inquiry activities

### **The 2009 Mt Penny return to order**

The Privileges Committee has now held five hearings as part of its inquiry into the 2009 Mt Penny return to order. No further hearings are scheduled at the current time.

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

The Standing Committee on Law and Justice has deferred consideration of its draft report.

## Strategies to reduce alcohol abuse among young people

The Standing Committee on Social Issues has received 52 submissions concerning strategies to reduce alcohol abuse among young people. The Committee has held three public hearings and is scheduled to conduct a site visit to Byron Bay in October.

### **Tourism in local communities**

General Purpose Standing Committee No. 3 has received 82 submissions into tourism in local communities. It has held three public hearings and will be conducting roundtable discussions in Ballina and Dubbo in October and Jindabyne in November.

### **Agistment of horses at Yaralla Estate**

The Legislative Council has agreed to the Select Committee’s request for a further extension to the reporting date. The final report is now being drafted and is due to be tabled by 24 October 2013.

### **Allegations of bullying in WorkCover**

The inquiry commenced in June 2013. Submissions have closed and should be available on the Committee’s website by the end of next week. Hearings will take place on 6 and 11 November, with a reserve date of 18 November. The Committee expects to report in early 2014.

### **Ministerial propriety in NSW**

The Select Committee has held its first meeting and is inviting written submissions, with a closing date of 8 October 2013. The Committee will hold its first hearing on Monday 14 October 2013.

### **Greyhound racing in NSW**

The Select Committee has held its first meeting and has called for submissions, with a closing date of 6 November 2013.

## Adjournment debate

### **Tuesday 17 September 2013**

Federal election 2013 (Mr Blair); Nurse-patient ratios (Ms Fazio); Field and Game Australia (Mr Brown); Multicultural Media Awards (Mr Moselmane); Alcohol-related violence (Ms Barham); Foreign aid (Mr Clarke).

### **Wednesday 18 September 2013**

Home renovation asbestos exposure (Mr Primrose); Parliamentary Prayer Fellowship (Mr Green); Anniversary of the death of Stephen Bantu Biko (Mr Khan); Drinking water supply database (Mr Secord); Black cat track (Mr Lynn).

### **Thursday 19 September 2013**

Middle East (Revd Nile); Small Business Commissioner Appointment (Mr Searle); Sydney Morning Herald Good Food Guide 2014 regional restaurants (Miss Gardiner); Public transport (Ms Faruqi); TAFE NSW (Mr Veitch); Parliamentary study tour to Armenia and Nagorno Karabakh (Ms Ficarra); Western Australian Government Credit rating downgrade.

## **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.

A handwritten signature in black ink, appearing to be 'DB', written in a cursive style.

David Blunt  
Clerk of the Parliaments