

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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Sitting day
30 January 2014



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 was recalled to sit for one day on Thursday, 30 January 2014, by the President at the request of the Leader of the Government to consider legislation regarding drug and alcohol related violence, and the cancellation of certain mining exploration licences. The bills, the *Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014*, the cognate *Liquor Amendment Bill 2014* and the separate *Mining Amendment (ICAC Operations Jasper and Acacia) Bill 2014* were all passed by the House during the day. The bills were also passed by the Legislative Assembly. The House has now again adjourned until Tuesday 4 March 2014, unless recalled earlier.

This was the tenth time since 1988 that the House has been recalled during a recess.

Death of Mr Nelson Mandela AO

At the commencement of proceedings, the President informed the House that on behalf of members of the Legislative Council, a message of condolence was sent to the South African High Commissioner on the death of Nelson Rolihlahla Mandela AC, former President of South Africa, on 5 December 2013.

Members and officers stood as a mark of respect.

Ministerial statement – changes in administration

The Leader of the House, Mr Gallacher, informed the House of certain changes to the Ministry which followed the resignation of the Honourable Christopher Hartcher MP, Minister for Resources and Energy, Special Minister of State, Minister for the Central Coast, and as a member of the Executive Council on 9 December 2013.

These changes included the Honourable Anthony Roberts MP being appointed Minister for Resources and Energy, and Special Minister of State; and Mr Stuart Ayres MP being appointed Minister for Fair Trading, Minister Assisting the Premier on Western Sydney and as a Member of the Executive Council. The changes also included Mr Gallacher becoming Minister for the Central Coast. Mr Gallacher also resigned from his position as

Minister for the Hunter which has been taken by the Honourable George Souris MP.

Conduct of business

Following formalities, the Leader of the House, Mr Gay, moved that Government business take precedence of all other business for the day, including Question Time, thereby enabling the House to consider the urgent legislation foreshadowed by the Government. The motion was agreed to without amendment or debate.

Government business

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

Mining Amendment (ICAC Operations Jasper and Acacia) Bill 2014

The bill originated in the Legislative Council.

Summary: The bill responds to the findings and investigations of the Independent Commission Against Corruption (ICAC) in Operations Jasper and Acacia. Operations Jasper and Acacia concerned the granting of certain mining exploration licences by the former Minister for Mineral Resources and Minister for Primary Industries, Mr Ian Macdonald. The licences were: exploration licence number 7270 (Doyles Creek); exploration licence number 7405 (Glendon Brook); and exploration licence number 7406 (Mount Penny). The ICAC found that the granting of these licences was tainted by serious corruption.

The bill amends the *Mining Act 1992* to cancel the licences and to provide that no compensation is payable to the two companies holding the licences: NuCoal and Cascade Coal. However, the bill provided for the refunding of licence application fees, subject to remediation of the sites.

Proceedings: The bill was introduced in the Council immediately following formalities, read a first time and declared urgent, allowing it to pass through all remaining stages during the sitting day. Debate on the second reading commenced immediately.

In his second reading speech, the Minister (Mr Gay) stated that the bill will draw a line under the events that led to the issuing of these mining licences. Mr Gay also

argued that the bill will continue the process of restoring confidence in the integrity of government and the mining industry in New South Wales.

The Opposition supported the bill, indicating its backing of any recommendations made by ICAC. The Opposition also noted the potential for legal action by NuCoal and Cascade Coal seeking compensation, and also the possible impact the legislation may have on innocent parties who invested in those companies. However, the Opposition accepted that such considerations, beyond the refund of the licence application fees, would have enormously complicated the bill.

The Christian Democratic Party and The Greens also supported the bill. The Christian Democratic Party cited its strong support for the work of the ICAC, and the bill's restoration of public confidence in the allocation of the State's natural resources. The Greens congratulated the Government for its role when in opposition in bringing these matters to the Parliament, along with the role performed by former member of the Legislative Council and current Senator Lee Rhiannon and also the role performed by the media. The Greens also supported the work of the ICAC.

The second and third readings were agreed to and the bill was forwarded to the Assembly for concurrence. The Assembly returned the bill later in the day without amendment.

Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and cognate Liquor Amendment Bill 2014

The bills originated in the Legislative Assembly.

Summary: The bills implement the reforms announced by Premier O'Farrell to address drug and alcohol related violence on the streets of Sydney. The reforms include: eight year mandatory minimum sentences (and a maximum of 25 years) for individuals over 18 convicted of assault causing death committed while intoxicated by drugs and/or alcohol, with a blood alcohol reading of 0.15 taken as conclusive proof of intoxication (the so-called "one-punch laws"); the introducing 1.30 am lockouts and 3.00 am last drinks for certain licensed venues across an expanded Sydney CBD precinct which includes Kings Cross, Cockle Bay, the Rocks, Haymarket and Darlinghurst; the introduction of risk-based licensing of venues requiring licensees to pay a licence fee according to factors such as their location, size, trading hours and history of violence; extending the current freeze on the granting of hotel, club and certain other licences in the Kings Cross, and Oxford Street precincts to the Sydney CBD precinct, and a new state-wide 10.00 pm closing time for all bottle shops and liquor stores. The bills also implement a range of other measures designed to reduce drug and alcohol related violence, including increased penalties for offensive conduct, offensive language in a public place or for failure to comply with a move-on direction by a member of the NSW Police Force.

Proceedings: The bills were received by the Legislative Council after their passage through the Legislative Assembly and read a first time. Standing orders were

suspended to allow the bills to pass through all remaining stages during the sitting day. Debate on the second reading commenced immediately.

In his second reading speech, the bulk of which was incorporated into Hansard, the Minister (Mr Gallacher) stated that the purpose of the bills is to protect the community through the introduction of a suite of tough new measures to address drug and alcohol related violence. The Minister noted that recent months have seen a number of serious violent alcohol and drug fuelled assaults in the Sydney CBD and elsewhere. The Minister also noted that there is no single or simple cure-all measure for the problems caused by drug and alcohol related violence. However, he argued that the community has had enough of drug and alcohol related violence, and that stronger measures, such as mandatory minimum sentencing for intoxicated violent assaults and lock-outs, will send a strong and consistent message that such violence will not be tolerated.

The Opposition did not oppose the bills, noting its own Drink Smart Home Safe policy, which amongst other things incorporates an 18 month trial of Newcastle-style alcohol restrictions in Kings Cross and the Sydney CBD, including 1.00 am lockouts, 3.00 am last drinks, and no shots served after 10.00 pm. The Opposition argued that the Government is implementing part of Labor Party policy, but that the Government had taken too long to address the problem and has failed in key areas in its response. Some members of the Opposition also expressed reservations regarding the effectiveness and appropriateness of mandatory minimum sentencing.

The Shooters and Fishers Party did not oppose the bills, emphasising its support for measures seeking to address drug and alcohol related violence. However, the Shooters and Fishers Party were critical of the timeliness of the Government's response. The Party indicated its previous support for mandatory sentencing of offenders who use a firearm in the commission of an offence.

The Christian Democratic Party strongly supported the bills, noting the Party's consistent long-term opposition to the consumption of alcohol, and expressing hope that the new measures have the same behavioural effect as random breath testing for drivers.

The Greens strongly opposed the bills. Chief among their concerns were that the bills focus too much on responding to drug and alcohol related violence rather than preventing it from occurring in the first place, and that as such, the measures in the bills will not work. The Greens also strongly opposed mandatory minimum sentencing, arguing that it does not work to deter or reduce crime. The Greens also argued that the provisions in the bill increasing fines for offensive and drunk conduct would be applied disproportionately to individuals with low socioeconomic status.

In his reply, the Minister noted that the measures announced in the bill are supported by various groups such as Last Drinks, the Police Association and the Australian Medical Association.

The second reading was agreed to, with the Greens voting against the bills (Division 25:5).

In the committee stage, the Greens argued against the adoption of schedule 5 in the *Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014* which increased the fines for offensive conduct or language and refusal to comply with a move on direction. No other parties supported the Greens, and the schedule was agreed to stand as part of the bill on the voices.

The Greens also moved a set of amendments to the *Liquor Amendment Bill 2014*. The amendments sought to set the licensing fee for venues under the risk-based licensing arrangements at five per cent of the revenue received by the venue from liquor sold; make membership of liquor accords compulsory for all licensed venues and licensed liquor outlets within an accord area; enable local councils not within the Sydney region to develop alcohol management plans; and include Barangaroo and the Star City Casino in the expanded CBD precinct. All amendments were negatived either on division or on the voices.

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

Messages from the Assembly

The House received the following messages from the Assembly regarding bills sent to the Assembly by the Council.

Statute Law (Miscellaneous Provisions) Bill (No. 2) 2013: The Assembly advised that it had agreed to the Council's amendments.

Mining Amendment (ICAC Operations Jasper and Acacia) Bill 2014: The Assembly advised that it had agreed to the bill.

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.

Motions taken as formal business

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

- (1) University of New England 75th anniversary (Mr MacDonald)
- (2) Ms Esme Evans (Ms Westwood)
- (3) Mr Michael Christodoulou AM (Mr Clarke)
- (4) Australian Training Awards Program (Ms Westwood)
- (5) Inter-faith service to commemorate the International Day of Peace (Mr Clarke)
- (6) Jewish Festival of Chanukah (Mr Clarke)
- (7) Kytherian Association of Australia charitable concert (Mr Clarke)
- (8) St Michael's Antiochian Orthodox Church, Kirrawee (Mr Clarke).

Orders for papers

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

Returns to order

- (1) **Windsor Bridge:** received 28 November 2013, 9 boxes public, 1 box privileged
- (2) **Racing Agreements:** received 4 December 2013, 10 boxes public, 3 boxes privileged
- (3) **Governance review of the Game Council:** received 12 December 2013, 1 box public, 1 box privileged.
- (4) **Mr Mathew Daniel (additional documents):** received 30 January 2014, 19 boxes public, 2 boxes privileged.

Petitions received

- (1) Tweed Byron Local Area Command – 17 signatures (presented Mr Secord)
- (2) Replacement of the Shoalhaven River Bridge – 211 signatures (presented Ms Sharpe).

Reports tabled

Independent Commission Against Corruption:

- (1) 'Operations Jasper and Acacia – Addressing outstanding questions', December 2013.
- (2) 'Investigation into false certifications of heavy vehicle competency-based assessments by a Roads and Maritime Services-accredited assessor', January 2014.

Ombudsman: 'Law Enforcement (Controlled Operations) Act 1997 – Annual Report 2012-2013', January 2014.

Parliamentary Ethics Advisor: 'Interim report of the Parliamentary Ethics Advisor for period 1 July 2013 to 31 December 2013'.

Auditor General: 'Financial Audit, Volume Seven 2013, focusing on Superannuation and Insurance', November 2013.

Auditor General: 'Financial Audit, Volume Eight 2013, focusing on Transport and Ports', November 2013.

Auditor General: 'Financial Audit, Volume Nine 2013, focusing on Environment, Water and Infrastructure', November 2013.

Auditor General: 'Financial Audit, Volume Ten 2013, focusing on Health', November 2013.

Auditor General: 'Improving legal and safe driving among Aboriginal people: Transport for NSW, Department of Attorney-General and Justice, Department of Finance and Services, Roads and Maritime Services, NSW Police Force, Department of Education and Communities', December 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 membership

The following changes to committee membership were reported:

Standing Committee on State Development: Ms Cusack in place of Dr Phelps.

Standing Committee on Social Issues: Dr Phelps in place of Ms Cusack.

Committee membership nominations

Select Committee on the impact of gambling:

The President informed the House that the Clerk has received the following nominations for membership of the Select Committee on the impact of gambling:

Government: Mr Lynn, Mr Mason-Cox, and Mrs Mitchell.

Opposition: Mr Veitch and Mr Wong.

Committee reports tabled

Standing Committee on Law and Justice: Report No. 50 entitled 'Racial Vilification law in NSW', dated December 2013.

Standing Committee on Social Issues: Report No. 48 entitled 'Strategies to reduce alcohol abuse among young people in New South Wales', dated December 2013.

General Purpose Standing Committee No. 1: Report No. 39 entitled 'Budget Estimates 2013 - 2014', dated December 2013.

Government responses

Select Committee on the closure of downsizing of Correct Services NSW Facilities: The House received a response to the report of the Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities entitled 'The closure or downsizing of Corrective Services NSW facilities', tabled 14 June 2013.

Standing Committee on State Development: The House received a response to the report No. 37 of the Standing Committee on State Development entitled "Adequacy of water storages in New South Wales", tabled June 2013.

Inquiry activities

Social, public and affordable housing

The Select Committee is receiving submissions with a due date of 28 February 2014. Seven submissions have been published to date. Initial hearings are scheduled for 12 and 13 March 2014.

Wambelong fire

General Purpose Standing Committee No. 5 adopted terms of reference to inquire into and report on the causes and management of the Wambelong fire within and adjacent to the Warrumbungle National Park in

January 2013. A call for submissions has been advertised and submissions close 31 January 2014.

Racial vilification law in NSW

The Standing Committee on Law and Justice report was tabled on 3 December 2013.

Ministerial propriety in NSW

The Select Committee has received seven submissions. The reporting date for the Inquiry is October 2014.

Removing or reducing station access fees at Sydney Airport

General Purpose Standing Committee No. 3 has received 32 submissions, held two hearings in December and received answers to questions on notice in early January. The Committee is due to report by 28 February 2014.

Motor Accidents Authority 12th Review and Lifetime Care and Support Authority Fifth Review

The Standing Committee on Law and Justice is conducting concurrent reviews into the MAA and LTCSA. The Committee has received 11 submissions to each review. Hearings will be held on 7 and 17 March 2014.

Tourism in local communities

General Purpose Standing Committee No. 3 has received 91 submissions. It has held three public hearings in Sydney, one public hearing in Queanbeyan and roundtable discussions in Ballina and Dubbo. The Committee expects to report in March 2014.

Greyhound racing in NSW

The Select Committee has received over 1,000 submissions. The Committee will hold its second hearing and public forum at Wallsend on 5 February 2014, and a third public hearing in the State Library on 6 February 2014.

Reviews into the WorkCover Authority and Workers' Compensation (Dust Diseases) Board

The Standing Committee on Law and Justice is conducting its first reviews into the exercise and functions of the WorkCover Authority and Dust Diseases Board. The Committee has received 22 submissions for the WorkCover review and 7 submissions for the Dust Diseases review. Hearings will be held in March.

Strategies to reduce alcohol abuse among young people

The Standing Committee on Social Issues received 54 submissions concerning strategies to reduce alcohol abuse among young people. The Committee held four public hearings and a roundtable with young people from the Byron Bay area. The Committee tabled its report with the Clerk on 13 December 2013.

Allegations of bullying in WorkCover NSW

General Purpose Standing Committee No.1 has received 94 submissions and held two hearings. Its report is currently being drafted.

Regional aviation services

The Standing Committee on State Development is receiving submissions with a closing date of 14 March 2014. Dates for hearings and site visits will be decided after the close of submissions.

Family response to the murders in Bowraville

The House referred an inquiry into the family response to the murders in Bowraville to the Standing Committee on Law and Justice on 26 November 2013. A call for submissions has been advertised and submissions close 28 February 2014.

Adjournment debate

Thursday 30 January 2014

Coal seam gas (Mr Buckingham); Gunnedah Australia Day Awards; (Mrs Mitchell); Public transport disability access (Ms Sharpe); Recreational fishing (Mr Brown); Labor economic policy (Mr MacDonald); Royal Botanic Gardens, Domain Trust and Centennial Park and Moore Park Trust (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.

All responses will be kept strictly confidential.



David Blunt
Clerk of the Parliaments