

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/75

*Sitting period
9 to 11 September 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

This week was notable for the prorogation of Parliament on Monday and the opening of the Second Session of the 55th Parliament on Tuesday. The opening was the Parliament's tribute to Her Excellency Professor the Hon Dame Marie Bashir, who has served as Governor of the State since 2001, and who will retire from that position on 1 October 2014.

The latter part of the sitting week saw the Council return to normal proceedings, passing five Government bills and considering a further five bills, including three private members' bills. The Council also agreed to a number of motions, including one on forced adoption practices and an order for papers on Medicare co-payment.

Prorogation and Opening of Parliament

On Monday 8 September 2014, the Parliament was prorogued by Proclamation, by Her Excellency the Governor, bringing an end to the First Session of the 55th Parliament of New South Wales. Prorogation terminated all business pending before both Houses of Parliament.

The Second Session of the 55th Parliament was officially opened by Commission on Tuesday 9 September 2014 at a joint sitting of both Houses of Parliament. The Governor gave a speech to all members reflecting on her time as Governor.



Later that day, the Council debated and unanimously agreed to the Address-in-Reply to Her Excellency's speech, offering sincere congratulations on undertaking the duties of her office with distinction and devotion.

Members will present the Address-in-Reply to the Governor at Government House on Tuesday 16 September 2014.

Restoration of sessional orders and business from the First Session

On 9 September 2014, the Council agreed to various motions to restore all sessional orders, business on the Notice Paper and unanswered questions without notice and on the Questions and Answers Paper from the First Session.

The Council also sent a message to the Legislative Assembly requesting that bills, originating in the Council and forwarded to Assembly in the previous session, be restored to its Business Paper. The Council received a corresponding message from the Assembly.

Statements by the President

Centenary of the First World War: The President made a statement that marked the resolution of the Legislative Assembly, on Tuesday 8 September 1914, granting leave of absence to George Frederick Braund and Edward Rennix Larkin enabling them to enlist in the Australian Imperial Force. Mr Braund and Mr Larkin were subsequently killed in action at Gallipoli.

Committee of the whole procedure: The President made a statement regarding a procedural trial where the committee, by leave, may consider a bill as a whole during the committee stage.

Parliamentary Budget Officer: The President made a statement regarding the appointment of Mr Stephen Bartos as the Parliamentary Budget Officer.

Temporary Chairs of Committees

The President reappointed the Temporary Chairs of Committees from the previous session.

Government business

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

Bills

Fair Trading Amendment (Ticket Reselling) Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Fair Trading Act 1987* to provide greater protection and transparency to consumers who wish to sell or purchase tickets in the secondary marketplace, with minimal cost and disruption to event organisers. The bill requires that a ticket resale advertisement must specify the ticket number, and the bay, row and seat number, specify the terms and conditions and contain a photograph of the ticket. These requirements also apply to e-tickets.

Proceedings: Debate on the second reading of the bill commenced on 10 September 2014. In his second reading speech, the Minister (Mr Mason-Cox) stated that ticket scalping, or the unauthorised resale of tickets for a price above the original value is an ongoing problem for consumers, event organisers, sporting codes and performers and that the bill will help to protect consumers from price gouging and fraud and empower event organisers to enforce their ticket terms and conditions.

The Opposition provided conditional support for the bill, while The Greens opposed it, with both expressing concern that it does not appropriately meet its objective of protecting consumers and providing certainty for the secondary ticketing market. Concern was raised that anyone who wishes to resell a ticket for a number of legitimate reasons, such as illness, will not be able to recoup the full value of their purchase as there is no provision to recoup booking or handling fees. The Christian Democratic Party did not oppose the bill, but echoed concerns about the bill's practicality and effectiveness.

During debate, Mr Searle moved that the question be amended to refer the bill to General Purpose Standing Committee No. 4 for inquiry and report. The amendment was agreed to on Division (21:16) and the bill was subsequently referred to the committee.

Passenger Transport Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill repealed the *Passenger Transport Act 1990* and the *Air Transport Act 1964* following a Government review of the legislation. In its place, the bill provides for a range of provisions, such as the accreditation of operators of public passenger services, the authorisation and provision of licences for drivers of those services, changes to the regulation of taxi networks and booking services, and maximum fares.

Proceedings: Debate on the second reading of the bill commenced on 10 September 2014. The second reading speech of the Minister (Mr Gay) was incorporated into Hansard. The speech indicated that the bill is the outcome of the first comprehensive review of passenger

transport legislation since the *Passenger Transport Act* was enacted and reflects the need for a simpler framework, which safeguards and maintains the interests of customers while recognising technological innovations, such as changes to the regulation of taxi booking services to allow for the use of new app technologies. In addition, the bill introduces a five per cent cap on taxi fare surcharges when paying by credit card.

The Opposition and the Christian Democratic Party supported the bill and The Greens supported aspects of the bill, with all agreeing that it is a simplification of the current Act. Members praised the recognition of community transport in the bill as well as initiatives regarding booking taxis and the reduced surcharge. The Opposition noted that the latter initiative had been canvassed in the Select Committee on the NSW Taxi Industry's June 2010 report.

During debate, The Greens expressed concern regarding fare pricing and the role of the Independent Pricing and Regulatory Tribunal and foreshadowed amendments on the matter would be moved in the committee stage. The second reading was agreed to.

In the committee stage, The Greens moved 11 amendments to the bill, which primarily sought to ensure the Independent Pricing and Regulatory Tribunal is required to determine the pricing of transport services, arguing that these fares should be overseen by an independent authority. The Greens did not garner support for the amendments which were subsequently negated, five on the voices and six on Division (31:5).

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

Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Snowy Hydro Corporatisation Act 1997* in order to establish the Snowy Advisory Committee to advise the Water Administration Ministerial Corporation each year on the timing and pattern for the release of water for environmental reasons under the Snowy water licence. The Snowy Advisory Committee replaces the Snowy Scientific Committee, which is dissolved by the bill.

Proceedings: Debate on the second reading of the bill resumed on 10 September 2014 from 12 August 2014 (see Vol. 55/53 of *House in Review* for earlier debate). The Opposition and The Greens spoke in opposition to the bill primarily on the grounds that it replaces the Snowy Scientific Committee with the Snowy Advisory Committee, which is under the control of the Minister, and will not have the same independence or include the same scientific expertise as the previous committee.

The Christian Democratic Party supported the bill, arguing that the Snowy Advisory Committee will be made up of a broader representation that can address a range of issues associated with environmental flow releases, including Aboriginal issues, and will include technical and water management expertise from within government agencies.

The second reading (Division 21:18) and third reading of the bill were agreed to and the bill was returned to the Assembly without amendment.

Water Management Amendment Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill makes miscellaneous amendments to the *Water Management Act 2000* and certain water sharing plans, including establishing term water allocation transfers, clarifying terminology and making further provisions regarding harvestable rights and the operation of metering equipment.

Proceedings: Debate on the second reading of the bill commenced on 10 September 2014. In his second reading speech the Minister (Mr Gay) stated that the bill provided a comprehensive package of amendments to ease the regulatory burden on water users and meet the challenges of managing water resources. The Minister detailed elements of the bill which seek to achieve sustainability, streamline licensing and trading processes, provide benefits to water users, and further develop the water market. The Minister noted that the focus of the bill is on improving processes, reducing red tape, facilitating best practice and providing economic benefits and sustainability outcomes for the State.

The Opposition supported the bill, noting that it continues the lengthy reform of the complex water management system which has been ongoing for the last 15 years at both a State and Federal level, the importance of clarifying definitions and the impact on users to harvest different types of water. The Opposition indicated it would also be particularly interested in subsequent regulations, methods for water pricing and the State's contribution to the Murray-Darling Basin Plan.

The Greens opposed the bill stating that it was a step backwards for water and drought management, undermined the capacity of water users and had the potential to adversely impact the environment.

The Christian Democratic Party supported the bill, congratulating the Government on the work involved in bringing the legislation to the Parliament.

The second (Division 30:5) and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Courts Legislation Amendment (Broadcasting Judgements) Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the *District Court Act 1973* and *Supreme Court Act 1970* to require the District Court and Supreme Court to permit the recording and broadcast of certain judgments given by those courts in open court unless an exclusionary ground is present.

Proceedings: Debate on the second reading of the bill commenced on 10 September 2014. The second reading speech of the Parliamentary Secretary (Mr Clarke) was incorporated in Hansard. The speech stated that currently there are no guidelines promoting consistency in deciding whether to allow cameras in courts and that

the bill seeks to bring greater transparency and consistency to the process of approving applications to broadcast verdicts, sentencing remarks and civil judgments in open court. While the bill contained some exclusionary grounds necessary for the protection of children, proceedings held in closed court and in certain other circumstances, the bill promotes the principle of open justice that is fundamental to the court system.

The Opposition did not oppose the bill but made cautionary arguments regarding the impact of broadcasting on the court system although acknowledging the various exclusionary grounds to broadcasting present in the bill. The Greens and the Christian Democratic Party both spoke in support of the bill and measures which aim to increase public access to the judicial system.

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

Drug Court Legislation Amendment Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Drug Court Act 1998*, the *Crimes (Administration of Sentences) Act 1999* and the *Crimes (Administration of Sentences) Regulation 2008* to implement reforms recommended by a statutory review of the legislation governing the Compulsory Drug Treatment Correctional Centre. The bill increases the upper limit for eligibility of offenders for the centre's compulsory drug treatment program from three years or less of their non-parole period to six years or less. The bill further amends the firearms conviction criteria for eligibility for the program and makes other amendments to improve the operation of the Compulsory Drug Treatment Correctional Centre.

Proceedings: The second reading commenced on 10 September 2014 and the Minister (Mr Gay) incorporated his second reading speech in Hansard. In that speech the Minister provided background to the scheme, which is the only correctional program of its kind in Australia, and detailed the features of the bill which implement nine legislative recommendations made in the statutory review. The changes intend to make the program available to a greater number of eligible and suitable participants, provide flexibility in the operation of the program, and make changes regarding sentencing and parole orders of participants. The speech further highlighted the program's effectiveness in providing treatment and reintegration of participants into the community.

The Opposition did not oppose the bill, noting the role of the former Labor Government in establishing the Compulsory Drug Treatment Correctional Centre in 2006 and the favourable assessment of the program in the statutory review. The Opposition also supported amendments to the eligibility criteria and called for the further expansion of the scheme. The Greens supported the bill and general strategies which focused on rehabilitation and crime prevention over incarceration and noted the bill was a positive step forward.

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

Child Protection (Offenders Registration) Amendment (Statutory Review) Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Child Protection (Offenders Registration) Act 2000*, following a statutory review of that Act, in respect to the monitoring of registered persons living in the community. It amends the objects of the Act, expands the definition of registrable offences and includes further criteria a court must take into account when determining whether to make a registration order.

Proceedings: Debate on the second reading of the bill commenced on 10 September 2014. The second reading speech of the Minister (Mr Ajaka) was incorporated into Hansard. The speech indicated that the protection of children remains paramount and is of significant concern to the community and that the changes introduced in the bill ensure that the Act remains valid and meets those expectations. Through various measures the bill will strengthen the monitoring of child sex offenders living in the community and the inclusion of new registrable offences, such as the manslaughter of a child, will ensure that offenders who continue to pose significant risks to children are included in ongoing monitoring.

The Opposition supported the bill stating that the child protection regime was originally a Labor initiative, and that the area requires constant, careful scrutiny in order to effectively protect young people. Debate on the second reading of the bill was adjourned.

Bills discharged

The following bills were discharged from the Notice Paper:

- (1) Industrial Relations Amendment (Dispute Orders) Bill 2012
- (2) Petroleum (Onshore) Amendment Bill 2013
- (3) Energy Legislation Amendment (Retail Price Deregulation) Bill 2014.

Messages from the Assembly

Bills introduced and read a first time: The following bills from the Assembly were introduced, read a first time, and their second reading set down for a later hour:

- (1) Protection of the Environment Legislation Amendment Bill 2014
- (2) Bail Amendment Bill 2014
- (3) Mine Subsidence Compensation Amendment Bill 2014.

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.

Bills

Summary Offences Amendment (Full-face Coverings Prohibition) Bill 2014 (Revd Mr Nile, Christian Democratic Party)

The bill originated in the Legislative Council.

Summary: The bill amends the *Summary Offences Act 1988* to prohibit people wearing full-face coverings in public places without a reasonable excuse. Religious or cultural beliefs do not constitute a reasonable excuse, however face coverings may be worn in churches or other places of worship. Penalty for conviction is a maximum fine of \$550.

Proceedings: Leave was granted to bring in the bill on 11 September 2014. The bill was presented, read a first time and printed. In his second reading speech, Revd Mr Nile indicated that the purpose of the bill is to stop people who are intending to commit a criminal act from concealing their identity in public, to promote community harmony and the protection of women. He stated that the bill is similar in substance to bills passed internationally, and is primarily based on the Belgian model. Debate was adjourned for five calendar days.

Native Vegetation Amendment Bill 2014 (Mr Brown, Shooters and Fishers Party)

The bill originated in the Legislative Council.

Summary: The bill amends the *Native Vegetation Act 2003* to make further provision with respect to the clearing of native vegetation, including modifying current controls so that they apply only to the clearing of native indigenous trees and the requirements for the broadscale clearing of native vegetation.

Proceedings: Debate on the second reading of the bill resumed on 11 September 2014 from 29 May 2014 (see Vol 55/70 of *House in Review* for earlier debate). The Minister (Mr Gay) spoke briefly to state that while the Government saw merit in the bill, there were substantial problems that required review before it could be meaningfully debated. Debate on the second reading of the bill was adjourned.

Transport Administration Amendment (Rail Trails Community Management) Bill 2014 (Mr Veitch, Australian Labor Party)

The bill originated in the Legislative Council.

Summary: The bill seeks to amend the *Transport Administration Act 1988* to allow the Minister to enter into an agreement with not-for-profit organisations or local councils for the use of disused railway line corridors as recreational rail trails.

Proceedings: Debate on the second reading of the bill resumed on 11 September 2014 from 14 August 2014 (see Vol 55/53 of *House in Review* for earlier debate). The Greens did not support the bill as it would weaken the strong protections of railway line corridors in the State by providing the Minister for Transport with discretionary powers. The Greens noted that in certain circumstances rail trails can provide regional development and tourism opportunities and should instead be considered on a case-by-case basis. Debate on the second reading of the bill was adjourned.

Motions

Forced adoption practices (Ms Barham, The Greens)

Summary: The motion called on the House to commend the State Government for its delivery on 20 September 2012 of a State Apology for Forced Adoption Practices, and the Commonwealth and other State and Territory governments for delivering similar apologies. The motion also called on the Government to establish an annual Day of Recognition of Forced Adoption Practices, construct a public memorial to commemorate the apology, and develop information resources and a communications strategy to raise public awareness and to highlight the support services available to those affected by forced adoption practices.

Proceedings: Debate on the motion resumed on 11 September 2014 (see Vol 55/58 of *House in Review* for earlier debate). As in earlier debate, speakers noted the pain and anguish caused by forced adoptions and expressed support for a Day of Recognition and a public memorial. Speakers also acknowledged the significant shift in the attitude of the community regarding births outside marriage and adoption.

In reply, Ms Barham acknowledged that the Council was the first parliamentary House to inquire into the issue and noted the legacy of the Standing Committee of Social Issues' inquiry and the recent federal inquiry in bringing about the National Apology. Ms Barham concluded by emphasising that the trauma of people affected by forced adoption continues today.

The motion was agreed to.

2014 Commonwealth Games (Ms Ficarra, Liberal Party)

Summary: The motion called on the House to congratulate and commend the achievements of Australian athletes who competed in the 2014 Commonwealth Games, where they collectively won 51 Gold Medals, 43 Silver Medals and 46 Bronze Medals. The motion also congratulated and commended the Commonwealth Games Federation and the host City of Glasgow on their outstanding effort in organising the 2014 Commonwealth Games.

Proceedings: Standing orders were suspended to bring on the item of business. Ms Ficarra acknowledged the outstanding sporting achievements of the athletes at Australia's 20th participation in the Commonwealth Games and congratulated all medalists, participants, organisers and supporters. Government and Opposition

members joined in support of the motion, congratulating everyone involved in the 2014 Commonwealth Games.

The motion was agreed to.

Motions taken as formal business

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

- (1) Australian women's hockey team (Mr Gay)
- (2) Harmony Day 2014 (Ms Westwood)
- (3) Mr Reginald Gasnier AM (Ms Ficarra)
- (4) Dementia Awareness Month (Ms Barham)
- (5) Ms Heather Harford (Ms Barham)
- (6) Ms Donna Rygate (Ms Westwood)
- (7) Azerbaijani aggression (Revd Mr Nile)
- (8) World Suicide Prevention Day (Ms Barham)
- (9) National Child Protection Week (Ms Barham)
- (10) Country Women's Association of New South Wales (Ms Barham)
- (11) Centenary of the Australian Red Cross (Mr Lynn)
- (12) Agreement between TAFE NSW and two Chinese universities (Ms Ficarra)
- (13) MATES in Construction (Ms Ficarra)
- (14) General Purpose Standing Committee No. 1—Reference (Revd Mr Nile)
- (15) Polish School of Sydney – Randwick (Ms Ficarra)
- (16) 20th anniversary of Green Valley Hindi Language School (Ms Ficarra)
- (17) Centenary of Lieutenant William Malcolm Chisholm's death (Mr Lynn)
- (18) 70th anniversary of Teachers RSL sub-branch (Mr Lynn)
- (19) Sydney Coastal Councils Group (Ms Barham)
- (20) Feros Care (Ms Barham).

Orders for papers

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

Order made

- (1) **Medicare co-payment (Mr Foley):** The order relates to documents from the NSW Ministry for Health or the Minister for Health that refer to the Commonwealth Government's introduction of the co-payment. The motion was agreed to. Due: 25 September 2014.

Return to order

- (1) **Ministerial Consultative Committees:** received 4 September 2014, 4 boxes public, 2 boxes privileged.

Petitions received

- (1) Public libraries – 100 signatures (presented Ms Barham)
- (2) Day of recognition of forced adoption practices – 26 signatures (presented Ms Barham).

Report tabled

Audit Office of New South Wales: Report for the year ended 30 June 2014.

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 references

General Purpose Standing Committee No. 4: As noted above, on 10 September 2014, at the conclusion of the second reading debate for the Fair Trading Amendment (Ticket Reselling) Bill 2014, the Council agreed to Mr Searle's motion that the committee inquire into the bill.

General Purpose Standing Committee No. 1: On 11 September 2014, the House agreed to a motion of Revd Mr Nile that the committee inquire into and report on the implementation of the recommendations of the committee's Report No. 40 entitled 'Allegations of bullying in WorkCover NSW', dated June 2014.

Committee reports tabled

Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission: Report No. 8/55 entitled "2014 General Meetings", dated August 2014.

Select Committee on social, public and affordable housing: Report entitled "Social, public and affordable housing", dated September 2014.

Standing Committee on Law and Justice: Report No. 53 entitled "Review of the exercise of the functions of the Workers' Compensation (Dust Diseases) Board", dated September 2014.

Legislation Review Committee: Legislation Review Digest No. 60/55, dated 9 September 2014.

Government's responses

General Purpose Standing Committee No. 3: Government's response to Report No. 29 entitled "Removing or reducing station access fees at Sydney Airport", received out of session and authorised to be printed on 27 August 2014.

General Purpose Standing Committee No. 3: Correspondence from the Leader of the Government advising that the Government's response to Report No. 30 entitled "Tourism in local communities", which was due on 6 September 2014, will be finalised and tabled shortly.

Inquiry activities

Standing Committee on Law and Justice

Inquiry into the family response to the murders in Bowraville

The committee travelled to Bowraville on 29 August 2014 to consult with representatives from the three families on some of the draft recommendations for the final report. The committee is now in the process of finalising the report.

Reviews into the exercise of the functions of the WorkCover Authority and Dust Diseases Board

The committee tabled its report on the Dust Diseases Board on 3 September 2014, and expects to table its report on the WorkCover Authority by 17 September 2014.

Standing Committee on State Development

Inquiry into regional aviation services

The committee held its final hearing in Sydney on 15 August 2014. The committee intends to table its report on 23 October 2014

General Purpose Standing Committee No. 5

Inquiry into the Wambelong fire

The committee conducted a site visit to Coonabarabran on 3 and 4 September, where it inspected fire affected areas and held a public hearing. In addition, it held a public forum attended by approximately 160 people, at which 16 people addressed the committee. The committee will take evidence at a second public hearing in Sydney on 15 September.

Inquiry into the performance of the NSW Environment Protection Authority

The committee has published 156 submissions and is having its first public hearing in Sydney on 13 October 2014.

Inquiry into Budget Estimates

The General Purpose Standing Committees will meet next week to consider whether to hold supplementary hearings.

Select Committee on home schooling

The committee held hearings on 5 and 8 September 2014.

Select Committee on greyhound racing in NSW

The committee tabled its First Report on 28 March 2014. The House has extended the committee's final reporting date to 17 October 2014.

Select Committee on ministerial propriety in New South Wales

The select committee has received seven submissions. The reporting date for the inquiry is October 2014.

Adjournment debate

Tuesday 9 September 2014

Islamic Community (Mr Moselmane); White Balloon Day (Mr Green); University of New South Wales former employee Dr Paul Barach (Dr Kaye); Malaysia Airlines Flight MH17 (Ms Ficarra); Road infrastructure funding (Mr Secord); Basic principles (Dr Phelps).

Wednesday 10 September 2014

Kamira alcohol and other drug treatment services (Mr Donnelly); Southern Cross University (Dr Kaye); Death of retained firefighter Daniel "Howie" Howard (Mr Blair); Domestic violence (Ms Westwood); People with disability and sexual support services (Ms Barham); Patrick Corporation (Mr Pearce); Boer War (Ms Fazio).

Thursday 11 September 2014

Grandmothers Against Removals (Mr Shoebridge); Christian persecution (Mr Clarke); Tribute to Kurt Steel (Mr Whan); Climate change (Mr Borsak); R U OK? Day (Mrs Maclaren-Jones); Lobbyists (Mr Foley); Penrith Panthers (Mr Lynn).

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