

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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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 Council's presentation of the Address-in-Reply to the Governor at Government House, the address to members of both Houses by the Governor of Guangdong Province and the prominence of debate on private members' bills, particularly the City of Sydney Amendment (Elections) Bill 2014.

Presentation of Address-in-Reply to the Governor

On 16 September 2014 at 5.10 pm members proceeded to Government House to present to the Governor the Address-in-Reply to Her Excellency's Opening Speech to both Houses of Parliament on 9 September 2014. Her Excellency provided an answer to the Address and thanked members for their expression of loyalty.



Address by the Governor of Guangdong Province, China

On Friday 19 September 2014, in acknowledgement of 35 years of the Sister State Relationship between New South Wales and Guangdong Province, His Excellency Mr Zhu Xiaodan, the Governor of Guangdong Province addressed a meeting of members of both Houses in the Assembly chamber.

This 'joint meeting' was well attended by members of both Houses.

Statement by the President

The President made a statement that marked the centenary of the publication of 'For the Fallen' by the war poet Laurence Binyon.

Government business

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

Bail Amendment Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Bail Act 2013* to require bail for certain serious offences to be refused unless the accused person shows cause why detention is not justified and to convert the current two-step unacceptable risk assessment process that applies to all bail decisions into a one-step risk assessment.

Proceedings: Debate on the second reading of the bill commenced on 17 September 2014. The second reading speech of the Parliamentary Secretary (Mr Clarke) was incorporated into Hansard. The speech indicated that the bill adopts recommendations from a review of the Act conducted by the former Attorney-General, John Hatzistergos, by introducing a new risk-based model for determining bail. The bill will increase the stringency applied to bail decisions for people charged with offences that pose significant risks to the community or the administration of justice. The speech noted the intention of these changes is to ensure the safety of the community.

The Opposition did not oppose the bill but criticised the Government's handling of this important aspect of public policy, with the Government abandoning its previous reforms. The Opposition was particularly concerned with provisions seeking to reverse the onus of proof on the accused in the show cause process.

The Greens opposed the bill, arguing that it impinged on civil liberties and is a radical departure from centuries of common law where the presumption of innocence is the cornerstone of the criminal justice system and condemning the review of the Act that culminated in the provisions introduced in the bill.

The Christian Democratic Party supported the bill, stating that community safety and wellbeing should be the highest consideration when bail decisions are made. The second reading was agreed to (Division 21:5).

In the committee stage, The Greens moved an amendment for the presumption of innocence and the general right to be at liberty to remain in the Purposes of the Act. The Government and the Opposition did not support the amendment, with both stating that these principles will remain in the Act and are being moved to the Preamble, and argued this is sufficient because they do not originate from, or are dependent on the Act. The amendment was negatived (Division 5:21), and the bill was reported to the House without amendment, read a third time and returned to the Assembly.

Mining Amendment (Small-Scale Title Compensation) Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Mining Act 1992* in respect of small-scale titles for mineral claims and opal prospecting. It provides a framework for interactions between landholders and opal miners, establishes a standardised compensation scheme, and makes changes to the levy fund for infrastructure and land rehabilitation.

Proceedings: Debate on the second reading of the bill commenced on 17 September 2014. The second reading speech of the Minister (Mr Mason-Cox) was incorporated in Hansard. In that speech the Minister stated that the bill implements the key legislative measures outlined in the Government's response to the report of the Hon. Murray Wilcox into Lightning Ridge Opal Mining which reported longstanding tensions between opal miners and landholders in Lightning Ridge. The bill supports the Government's commitment to the opal mining and agriculture industries in the Lightning Ridge area.

The Opposition supported the bill, congratulated the Minister for Resources and Energy on taking action to resolve a long-running and difficult issue and acknowledged that both NSW Farmers and the Lightning Ridge Miners Association welcomed the balanced legislation. The Opposition sought clarification on certain aspects of the bill including the requirement for an independent review before a Minister could vary the standard compensation rate and that the amendments were prospective and would not apply retrospectively.

The Greens also supported the bill and reiterated support for the regulation of the mining industry. However, The Greens raised concerns over land access issues, the right to appeal to the Land and Environment Court with regards to the rate of the standard compensation scheme, the cumulative impact of mining on the environment and the lack of environmental impact statements.

In reply, the Minister (Mr Gay) confirmed the requirement of an independent review in setting compensation rates and that the new process would only apply prospectively. The Minister also acknowledged the concerns of The Greens and indicated that the Government would consider additional restrictions on licences and on-the-spot fines.

In the committee stage, The Greens moved 12 amendments which sought to address the concerns they raised in the second reading debate and further amendments regarding public liability and land acquisitions. Although the Opposition supported some of the proposed amendments, they did not receive any further support and were negatived on the voices.

The bill was read a third time and returned to the Legislative Assembly without amendment.

Bill introduced and read a first time

The following bill from the Assembly was introduced, read a first time, and had the second reading set down for a later hour:

(1) **Constitution Amendment (Parliamentary Presiding Officers) Bill 2014.**

Disallowance of delegated legislation

Note: The Legislative Council may disallow pieces of delegated legislation such as statutory rules and instruments under Part 6 of the *Interpretation Act 1987* or under the provisions of the primary act.

National Energy Retail Law (Adoption) Amendment (Retail Price Deregulation) Regulation 2014 (Dr Kaye)

Summary: The regulation modifies the operation of the National Energy Retail Law (NSW). Amongst other things, it provides that the scheme offering energy at a regulated price to certain customers no longer applies, it provides for the transition of customers from regulated offer contracts to standard retail contracts, it provides for a Market Monitor to monitor and report on the performance and competitiveness of the retail electricity market, and it appoints the Independent Pricing and Regulatory Tribunal as the Market Monitor.

Proceedings: On 16 September 2014, the House agreed to consider the motion as business of the House. In speaking to the motion, Dr Kaye noted that the regulation is similar in substance to the Energy Legislation Amendment (Retail Price Deregulation) Bill 2014 that was discharged from the Legislative Council Notice Paper on 10 September 2014 and urged members to vote in favour of disallowance if they were intending to vote against that bill. Dr Kaye argued against the regulation as it deregulates electricity retailing, that 40 per cent of consumers who have not changed retailers since the time of full regulation will lose the protection of a regulated tariff and that there is a lack of competition in the sector.

The Opposition supported disallowance of the regulation, echoing the concerns of The Greens. The Government opposed disallowance, with the Minister (Mr Gay) refuting the comments made by Dr Kaye by stating that the regulation provides for an effective and competitive market with strong protections and low prices for customers. It encourages small retailers to enter the energy market, thereby increasing competition and meaning retailers will go to greater lengths to attract customers by offering better deals and discounts.

The motion was negatived (Division 19:22) and the regulation remains in force.

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

City of Sydney Amendment (Elections) Bill 2014 (Mr Borsak, Shooters and Fishers Party)

The bill originated in the Legislative Council.

Summary: The bill provides businesses operating in the City of Sydney local government area with two votes in City Council elections.

Proceedings: Standing orders were suspended to bring on the item of business. Debate on the second reading of the bill resumed on both 16 and 17 September 2014 from 14 August 2014 (see Vol 55/73 of *House in Review* for earlier debate).

Members of the Government spoke in support of the bill stating that providing businesses with a voice in local elections better reflects their significant financial contribution to the city and gives effect to a recommendation from the Joint Standing Committee on Electoral Matters' inquiry into the 2012 local government elections that the model of non-residential voting used by the City of Melbourne should be introduced in the City of Sydney. The Government also argued that although businesses may currently enrol to vote, the system is too cumbersome due to a complex process that requires businesses to re-enrol for each election.

The Christian Democratic Party also supported the bill, asserting that it restores democracy to the City of Sydney by making it easier for businesses to vote in elections. It also supported measures to allow two votes to businesses, arguing that it is no different from allowing a husband and a wife from having individual votes, even though they only pay one set of rates.

The Opposition and The Greens strongly opposed the bill, arguing that it is intended to gerrymander City of Sydney Council elections to the detriment of current Lord Mayor Clover Moore. The parties did not agree that corporations should have two votes, as it would drown out the voices of local residents by privileging the interests of corporations. In support of their argument, members noted that a recent report of the Local Government Electoral Review in Victoria recommended the repeal of the two votes for corporations in the City of Melbourne. Members also noted that the bill provides the City of Sydney with the power to fine businesses up to \$2,200 for failing to provide information for the electoral roll and argued this is merely a tactic of revenue raising.

The second reading was agreed to (Division 19:16). The Opposition and The Greens voted against the bill.

In the committee stage, the Government moved 14 amendments that included clarifying provisions relating to enrolment eligibility and to give the City of Sydney the

option of outsourcing the keeping and maintaining of the non-residential roll electoral information register. The amendments were supported by the Christian Democratic Party and the Shooters and Fishers Party, but opposed by the Opposition and The Greens. The amendments were all agreed to, three on the voices and 11 on four separate Divisions (22:19).

The Greens moved 21 amendments in committee, primarily to remove any reference in the bill to providing two votes to a corporation, in favour of retaining the status quo of one vote. Twenty of these amendments only garnered support from the Opposition and were negatived. The final Greens' amendment, which sought to remove the provision to allow two votes for corporations to be extended by regulation to local government areas anywhere in the State, was agreed to by all members.

The bill was reported to the House with 15 amendments, read a third time (Division 22:19) and forwarded to the Assembly for concurrence. The Assembly subsequently agreed to the bill.

Transforming NSW Energy Sector (Towards 100 percent Renewables) Bill 2014 (Dr Kaye, The Greens)

The bill originated in the Legislative Council.

Summary: The bill seeks to reduce the reliance of the State's energy sector on fossil fuel by facilitating movement towards an energy sector completely based on renewable energy sources by 2030. The bill creates an expert panel to develop a plan for the best mix of renewable technologies and energy efficiency by 2030. The bill also requires the Government to take steps to develop renewable energy and energy efficiency measures and requires the Government to stop providing subsidies to the fossil fuel industry.

Proceedings: Debate on the second reading of the bill resumed on 18 October 2014 from 14 August 2014 and 29 May 2014 (see Vols. 55/43 and 55/70 of *House in Review* for earlier debates). Other members of The Greens spoke in support of the bill stating that New South Wales desperately needs to transform from a fossil fuel based economy to one powered by renewable energy which would create jobs and increase exports, making it a leader in the clean energy sector and bringing prosperity to the State.

The Opposition did not support the bill, stating that New South Wales needs a range of energy options to meet growing energy demand and that renewable energy options were already contributing to the energy sector. The Opposition also argued that the bill did not offer a serious policy proposal and that New South Wales needs a proper framework for the development of energy policy and to facilitate the growth of renewable energy. Debate 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 18 September 2014 from 11 September 2014 (see the previous edition of *House in Review* for earlier debate). Two members of the Opposition spoke in support of the bill stating that rail trails provide an important asset to local communities in terms of tourism and local recreational opportunities. They also refuted comments made earlier in debate by The Greens by stating that the intention of the bill is not to sell off the lines or have them operated for profit, and that it is too cumbersome for Parliament to consider each disused rail corridor on a case-by-case basis. Debate on the second reading of the bill was adjourned.

Fernleigh Track Conservation Area Protection Bill 2014 (Ms Voltz, Australian Labor Party)

The bill originated in the Legislative Council.

Summary: The bill seeks to prevent the sale, lease or disposal of land owned by Roads and Maritime Services which was set aside for the Charlestown East Bypass project in the Fernleigh Track Conservation Area, Lake Macquarie.

Proceedings: Leave was granted to bring in the bill on 18 October 2014. The bill was presented, read a first time and printed and debate on the second reading of the bill commenced. In her second reading speech, Ms Voltz noted that Fernleigh Track is a 15km walking and cycling track and wildlife corridor which connects a number of nature reserve and conservation areas which have significant biodiversity value and is much loved by the local community. Ms Voltz stated that a previous project to develop the area was not proceeded with due to the environmental significance of the area and that the bill would ensure the land remained a public asset and protect it as an important environmental corridor. Debate was adjourned for five calendar days.

Motions

Public housing (Ms Cotsis, Australian Labor Party)

Summary: The motion notes concerns raised by tenants living in public housing at a meeting held with New South Wales Labor members and the Shadow Minister for Housing and calls on the Government to form an oversight body to implement the NSW Auditor General's recommendations into public housing, advocate to the Federal Government to keep the Housing Affordability Supply Council and hold a summit on public housing at Parliament.

Proceedings: Debate on the motion commenced according to precedence. During debate, time was extended by 15

minutes to allow more members to speak to the motion. In moving the motion, Ms Cotsis noted that she had established a NSW Housing Tenants Advisory Committee, made up of representatives from the different housing estates so tenants could raise concerns about people with mental health issues being placed in public housing without adequate support services, inadequate services for older tenants, and the criminal element in public housing. She also raised concern that the Government has cut the budget to build new public housing and has still not acted on the recommendations made by the Auditor General.

Other members of the Opposition and The Greens spoke in support of the motion, with The Greens noting the motion mirrors some of the important issues that were highlighted during the recently tabled Select Committee report into social, public and affordable housing.

The Government opposed the motion arguing that it had inherited from the previous Labor Government a social housing system that was not delivering for tenants or taxpayers, with no transparency around the housing waiting list, a maintenance backlog in the hundreds of millions of dollars and that Labor had no real plan for getting the system back on stable ground. In contrast it stated that the Government has made significant progress in the transparency of waiting lists, running amnesties to crack down on people rorting the system and by introducing a vacant bedroom charge so more people can access housing. Debate was adjourned.

Motions taken as formal business

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

- (1) Gosford Regional Show (Mr Donnelly)
- (2) Book entitled "Gallipoli, the Road to Jerusalem" (Revd Mr Nile)
- (3) Mrs Joy Lister (Ms Ficarra)
- (4) The Hon John Patrick Slattery AO KGCSG QC (Ms Ficarra)
- (5) Wear It Purple Day (Ms Sharpe)
- (6) Able Seaman William (Billy) Williams (Mr Lynn)
- (7) Papua New Guinea Association of Australia 2014 commemorative centenary dinner (Mr Lynn)
- (8) Foster care (Ms Barham)
- (9) Byron Bay Writers Festival (Ms Barham)
- (10) Dr Catherine Hamlin (Ms Ficarra)
- (11) Jeannie Ferris Cancer Australia Recognition Awards 2014 (Ms Ficarra)
- (12) Australian Government's response to the Ukrainian crisis (Ms Ficarra)
- (13) Mr Ho Ta (Harry) Tang (Mr Wong)
- (14) Mr James Chan (Mr Wong)

- (15) Order for Papers—VIP Gaming Management Agreement (Dr Kaye)
- (16) Firefighter Daniel Howard (Mr Blair)
- (17) Great Lakes Agency for Peace and Development International (Ms Ficarra).

Order for papers

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

Order made

- (1) **VIP Gaming Management Agreement:** The order relates to the VIP Gaming Management Agreement in respect of the Barangaroo Restricted Gaming Facility. Due 2 October 2014.

Petitions

Petition received

- (1) Statement made by Prime Minister Tony Abbott regarding World War II Japanese troops – 4,627 signatures – Government’s response due 21 October 2014 (presented Mr Wong)

Government response tabled to the following petition

- (2) Domestic violence refugees (presented Ms Voltz).

Report tabled

Memorandum of Understanding with the ICAC: Revised draft ‘Memorandum of Understanding on the execution of search warrants in the premises of members of Parliament between the Commissioner of the Independent Commission Against Corruption and the Presiding Officers’, dated September 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

Select Committee on the planning process in Newcastle and the broader Hunter Region (Mr Shoebridge, The Greens): On 17 September 2014, standing orders were suspended to debate a motion for the establishment of a select committee to inquire into and report on aspects of the planning process in Newcastle and the broader Hunter Region and to consider the role of the Department of Planning and Infrastructure, Newcastle City Council, UrbanGrowth NSW, Lake Macquarie Council and the Hunter Development Corporation in the consideration and assessment of certain developments. The Government, Opposition and Christian Democratic Party each moved various amendments to the motion with all but two Government amendments being agreed to. The motion, as amended, was subsequently agreed to.

Privileges Committee: The House agreed to a motion of Mr Gay that the Privileges Committee inquire into and report on the revised draft Memorandum of Understanding with the ICAC tabled by the President on 16 September 2014. The Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics resolved to hold a similar inquiry.

Joint Select Committee on loose fill asbestos insulation (Mr Whan, Australian Labor Party): On 18 September 2014, standing orders were suspended to debate a motion for the establishment of a select committee to inquire into and report on loose fill asbestos insulation, also referred to as ‘Mr Fluffy’ insulation, in homes in New South Wales. By leave, Mr Whan amended his motion in order to establish the committee as a joint select committee. The Council agreed to the amended motion and a message was forwarded to the Legislative Assembly requesting agreement to the resolution. Later on 18 September 2014 the Council received a message advising that the Assembly had agreed to the resolution, appointed members to the committee and set the time and place for the first meeting.

Committee membership

Select Committee on the planning process in Newcastle and the broader Hunter Region: Ms Cusack and Mr Pearce were nominated as Government members on the committee.

Committee on the Independent Commission Against Corruption: Christopher Holstein appointed in place of Timothy Owen, resigned.

Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission: Christopher Holstein appointed in place of Bart Bassett, discharged.

Legislation Review Committee: Glenn Brookes appointed in place of Garry Edwards, discharged.

Joint Standing Committee on Road Safety: Andrew Rohan appointed in place of Darren Webber, discharged.

Extension of reporting date

Select Committee on Ministerial Propriety in New South Wales: On 18 September 2014, following a suspension of standing orders, the Council agreed to a motion by Mr Foley to extend the reporting date for the Select Committee’s report from the last sitting day in October 2014 to Monday 2 March 2015 (Division 19:15).

Committee reports tabled

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

Standing Committee on Law and Justice: Report No. 54 entitled ‘Review of the exercise of the functions of the WorkCover Authority’, dated September 2014.

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 its report.

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 concluded its evidence gathering this week with a public hearing on Monday 15 September 2014. It is now preparing its report, which it expects to table mid February 2015.

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.

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 has been extended until 2 March 2015.

Adjournment debate

Tuesday 16 September 2014

Centenary of First World War (Miss Gardiner); Prostate Cancer Specialist Care Nurses (Mr Veitch); Rail Trails (Mr Brown); Mobile Speed Cameras (Mr Secord); Southern Cross University Annual Michael Kirby Lecture (Ms Cusack); Advent Energy Limited Three-Dimensional Offshore Seismic Surveys (Mr Buckingham); Medicinal Cannabis (Ms Fazio).

Wednesday 17 September 2014

Beresfield Golf Course (Ms Voltz); Container Deposit Scheme (Dr Faruqi); Young Nationals Jenny Gardiner Scholarship (Mrs Mitchell); International Week of Deaf People 2014 (Ms Westwood); Youth Off the Streets (Mr Green); Global Warming (Dr Phelps); The Greens Members of the Legislative Council (Ms Cusack).

Thursday 18 September 2014

Whitehaven Coalmine (Mr Buckingham); ACON Honour Awards (Mr Khan); Community Charter for Good Planning (Ms Sharpe); Honours and Awards of the Army Book Launch (Revd Mr Nile); Middle Eastern Community Leaders (Mr Lynn); Lemnos 1915 Commemoration (Ms Cotsis); Clontarf Foundation (Mr Colless).

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
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