

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## HOUSE IN REVIEW



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Sitting period  
9 to 12 August 2011

The *House in Review* provides a summary of the New South Wales Legislative Council's activities for each sitting week. 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).

### Censure motion

On Tuesday 9 August 2011, the Leader of the Opposition (Mr Foley) moved to censure the Minister for Finance and Services (Mr Pearce) for misleading the House during Question Time the previous Friday concerning the Federal Government's response to the Australian Services Union's equal pay case before Fair Work Australia, and for subsequently failing to retract his comments or apologise to the House. In those statements the Minister said that the Federal Government throughout this case has refused to agree to any increase in funding to meet equal pay arrangements.

In speaking to the motion, the Leader of the Opposition referred to a public submission from the Federal Government which stated that it 'will meet its responsibilities and provide fair and appropriate supplementation in consultation with key stakeholders, taking into account the fiscal considerations and opportunities for reform in the sector.' Both the Opposition and the Greens argued that the Minister had had several opportunities to correct the record but had failed to do so.

The Government opposed the motion arguing that the pay case was ongoing and no increases had yet been agreed to, and that the Federal Government has not indicated a specific dollar or percentage increase amount to which it will commit. The Government further noted that the statement of general commitment by the Federal Government was subject to several disclaimers which made it impossible to discern a level of funding to which the Federal Government might eventually agree.

The motion was negated (Division 17:21).

### Sessional order – cut-off date for the introduction of government bills

On Wednesday 10 August 2011, the House adopted a sessional order stipulating Friday 21 October 2011 as the cut-off date for the introduction of Government bills to be considered in the spring sitting period. Such sessional orders have been adopted in the past to prevent the Government from pushing a raft of legislation through the House in the last few weeks of a sitting period, in this case the last two sitting weeks in November. Under the sessional order, where Government bills are introduced

after 21 October 2011, resumption of the second reading debate on the bill is to be set down for the first sitting day in 2012. However, bills declared by the House to be urgent may still proceed.

### Government business

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

#### Clean Coal Administration Amendment Bill 2011

*Summary:* The bill renames the Clean Coal Administration Act 2008 as the Coal Innovation Administration Act 2008, renames the Clean Coal Council as Coal Innovation NSW, and amends its membership structure. Previously its membership comprised five members from government agencies and five members from industry, with the capacity for the Minister also to appoint an unspecified number of qualified individuals. The bill specifies that membership will henceforth be comprised of two members each from government agencies and from industry and four qualified members appointed by the Minister.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Gay) indicated that the bill makes a number of minor but useful amendments to the Act that will ensure the council established under the Act continues to be effective, while also ensuring the language of the Act reflects current terminology.

The Opposition did not oppose the bill but urged the Minister to ensure that balance was maintained in the membership of the restructured Coal Innovation NSW. The Greens also did not oppose the bill but noted the changes were of semantic rather than a practical nature, at the same time suggesting that clean coal is a misnomer and cautioning against the continued pursuit of coal powered energy production at the expense of low or zero carbon energy sources. The Christian Democratic Party supported the bill noting that for the foreseeable future the State would continue to rely heavily on coal based energy production in order to meet its energy needs. The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

## Graffiti Legislation Amendment Bill 2011

**Summary:** The bill amends various acts to require a court making a community service order against a person guilty of a graffiti offence to impose a condition requiring the person to remove the graffiti where practical. The bill also empowers the courts to make certain orders with respect to the driving licence of an offender, including suspending the licence for up to six months. In addition, the bill removes the power of police and specialist youth officers to deal with young offenders by way of caution, warning or youth justice conference instead of court proceedings.

**Proceedings:** The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Gallacher) noted the community impact and cost of graffiti, with one estimate of the cost of cleaning up graffiti by RailCorp alone at \$55 million a year. The Minister indicated that the bill implements the Government's election commitment to target graffiti vandals.

The Opposition expressed concerns in relation to various provisions of the bill but, subject to amendments of those provisions, indicated support for the bill. The Opposition opposed those provisions of the bill that enable a court to make certain orders with respect to the driving licence of an offender, citing arguments that this provision is unlikely to work, and will only further marginalise certain young people. The Opposition also opposed the removal of the discretion of police to caution young offenders or refer them to youth conferencing, arguing that young people who attend youth conferencing have a lower reoffending rate than young people who appear before the courts. While not opposing the provisions that allow the courts to require offenders to clean up graffiti, the Opposition argued that courts already have this power.

The Greens opposed the bill, arguing that it will result in more young people going to court, with no evidence that it will actually lead to a reduction in graffiti. Rather, the Greens suggested that the new arrangements will mean more graffiti on the streets for longer, as there will be an inevitable delay while court orders are sought to oblige young people to remove their graffiti. The Greens advocated instead greater use of community service orders, and fast removal of graffiti as the best way of combating it.

The Christian Democratic Party supported the bill, noting the cost of graffiti and arguing that the provisions of the bill will act as a stronger deterrent to offenders.

The second reading debate was adjourned.

## Private members' business

**Note:** Private members' business is business moved 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

#### Heart Week (Ms Sharpe, Australian Labor Party)

**Summary:** The motion noted that heart disease is the number one killer of Australian women and that Heart Week, which took place from 1 May to 7 May in 2011, aims to raise community awareness of heart disease. The motion also urged members of the House to raise awareness about this important health issue.

**Proceedings:** Debate on the motion commenced according to precedence. In speaking to the motion, Ms Sharpe commended the efforts of the Heart Foundation in raising awareness of the dangers of cardiovascular disease, one of the nation's biggest killers. She noted that most people mistakenly believe that heart disease is only of concern to ageing men, when in fact it is the number one killer of Australian women. In the last decade cardiovascular disease in Australia has increased by 18.2 per cent, yet everyday lifestyle factors and healthy living can reduce susceptibility to cardiovascular disease. The Heart Foundation runs campaigns such as Go Red for Women to raise awareness and to promote healthy lifestyle choices to assist in prevention. Ms Sharpe concluded by urging all members of the House to inform their communities about the dangers of heart disease and what they can do to keep themselves healthy.

The motion was supported by all members who spoke during the debate. Members noted the challenge posed by heart disease in modern society with modern lifestyles, and took the opportunity to praise the work of the Heart Foundation. The motion was agreed to.

#### Speed Cameras (Ms Voltz, Australian Labor Party)

**Summary:** The motion noted the decision of the Government to remove or switch off 38 speed cameras, referred to the role that speed cameras play in reducing speed and accidents, particularly in residential and built up areas, and urged the Government to undertake consultations with local communities before any camera is switched off or removed.

**Proceedings:** Debate on the motion commenced according to precedence. In speaking to the motion, Ms Voltz noted that more than a quarter of the speed cameras in NSW have been turned off following an audit by the Auditor General, with the rationale given by the Government that they were simply revenue raising without contributing to safety. However, Ms Voltz argued this step had been taken without community consultation and appears to have less to do with road safety than political populism. Other Labor members spoke of communities that have lobbied hard to have speed cameras installed to ensure the safety of their children and their communities.

The Greens supported the motion, arguing that the Government's pre-election statements in relation to speed cameras and subsequent actions are not encouraging a good community attitude towards speeding and speed limits.

In response, the Minister for Roads (Mr Gay) and the Parliamentary Secretary (Mr Ajaka) noted that the Auditor General found that fixed cameras have an impact on driver behaviour and help reduce speeding, but indicated that the Government took the step to remove 38 speed cameras on the advice of the Auditor General that they were no longer effectively delivering a road safety benefit. The Government argued that this followed community consultation by the Auditor General, and was consistent with the Government's pre-election commitments.

The motion was negated (Division 16:20).

### Marrickville Council (Ms Sharpe, Australian Labor Party)

**Summary:** The motion referred to a proposal by Marrickville Council to tender out its green waste services; subsequent industrial action taken by affected permanent staff in response to the proposal; and the use of contract labour to carry out green waste services during the industrial action. The motion called on the House to condemn the use of contract labour to undermine the rights of workers. The Mayor of Marrickville Council is a member of the Greens.

**Proceedings:** Standing and sessional orders were suspended to bring on the item of business (Division 32:4).

The Government, Opposition and Shooters and Fishers Party supported the motion criticising both the issuing of the tender without first consulting the affected staff and the use of contract labour during the period of industrial action. The Shooters and Fishers moved an amendment to the motion to include condemnation of the mayor of Marrickville Council and to call on the NSW Greens to support the rights of workers in all industries.

The Greens opposed the motion stating that in Marrickville Council many previously contracted-out services had in recent times been brought back in-house. They argued that the decision to go to tender for waste services and to use contract labour during the industrial action was made by the General Manager without reference to the Mayor or other councillors. The Greens moved a series of amendments that in their view would correct what they saw as a number of inaccuracies in the motion, in particular the assertion that the use of contract labour was sanctioned by the Mayor.

The motion was the subject of robust debate, but was interrupted for Question Time before it could be concluded.

#### *Motion taken as formal business*

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

- (1) Mr Kenneth Samuel Clarke (Mr Moselmane).

### Petitions received

- (1) Coal seam gas exploration – 1,629 signatures (irregular, presented Mr Buckingham);
- (2) Moratorium on coal seam gas – 213 signatures (presented Mr Buckingham).

### Committee activities

#### *Committee reference*

**GPSC No. 5:** The Chair (Mr Brown) informed the House that on 5 August 2011, General Purpose Standing Committee No. 5 resolved to inquire into the environmental, economic and social impacts of coal seam gas activities in NSW allowable under the *NSW Petroleum (Onshore) Act 1991*.

#### *Committee membership*

**Joint Select Committee on the Parliamentary Budget Office:** Mr Khan in place of Mrs Mitchell.

#### *Extension of reporting date*

**General Purpose Standing Committee No 3:** The reporting date for the Committee's inquiry into rail project costings was extended to 29 February 2012.

#### *Committee reports tabled*

**Legislation Review Committee:** 'Legislation Review Digest No. 1/55, 8 August 2011.'

**Privileges Committee:** Report No. 56 entitled 'Citizen's Right of Reply (Mrs Dot Holdom)', August 2011.

### Reports tabled

Government response to report of the Ombudsman entitled 'Responding to the asbestos problem: The need for significant reform in NSW', 9 August 2011.

### Adjournment debate

#### Tuesday 9 August 2011

Murray-Darling Basin Plan (Mr Blair); Partners In Hope DVD (Ms Sharpe); Barangaroo development (Mr Shoebridge); Ju Percussion Group (Mr Clarke); Friends of Palestine (Mr Moselmane); Religious education policy (Revd Mr Nile); Death of Amy Winehouse (Dr Phelps); Australian Breastfeeding Association breastfeeding lounge (Ms Cotsis).

#### Wednesday 10 August 2011

Coal seam gas extraction (Mr Buckingham); Marriage equality (Ms Westwood); Country and regional living expo (Miss Gardiner); Country and regional living expo (Mr Whan); Tribute to Horace Young (Mr Green); National service (Mr Lynn); National Disability Insurance Scheme (Mr Mason-Cox).

#### Thursday 11 August 2011

Palm oil (Ms Faehrmann); Water efficiency programs (Dr Kaye); Accommodation bonds for high care (Mr Secord); Gillian Sneddon (Mr Khan); Alzheimer's Australia (Mrs McLaren-Jones); Cardiovascular disease and emergency medicine (Mr Searle); Name panels of former Presidents of the Legislative Council (Dr Phelps).

#### Friday 12 August 2011

Country Labor (Mr MacDonald); Public sector workers and conditions (Mr Veitch); Kangaroo meat industry (Mr Brown); Environmental crime (Mr Borsak); Department of Primary Industries staff cuts (Mr Whan); Mrs Maureen Stephenson, OAM (Ms Ficarra).

## **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 read "lynn lovelock".

Lynn Lovelock  
**Clerk of the Parliaments**