

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 56/15

2015 Summary

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 edition of *House in Review* summarises the work of the Legislative Council during 2015, the first sitting year of the 56th Parliament. The period covered by this summary extends from when the House first met on Tuesday 5 May 2015 to its last sitting day on Thursday 19 November 2015.

This year the House considered 70 Government bills and 591 amendments. While the number of bills considered was 14 less than in 2014, the number of amendments increased by more than 100 on the previous year's figure. Eleven private member's bills were introduced into the House this year. The House finalised consideration of just one of those bills, which was negatived at the second reading stage. The House did not receive any private member's bills from the Assembly.

Unlike other years, the House finalised consideration of all Government bills introduced. As a result, there are no Government bills on the Notice Paper over the summer recess.

Compared to 2014 there was a significant drop in the number of orders for papers agreed to by the House this year. In contrast to the 30 orders for papers agreed to in 2014, this year only four orders for papers were made, two of which related to budget papers.

However, one of the four orders papers concerning Greyhound Racing NSW has raised significant issues in relation to the order for papers process. This is discussed further, later in the summary.

For the second year running, there was a decrease in the number of questions on notice, down from 933 to 782, and questions without notice, down from 978 to 748. This decline in volume can likely be attributed to this being an election year with fewer sitting days. However, despite there being fewer sitting days, the number of notices of motion rose from 609 to 690.

In contrast it was an extremely busy year for Committees, whose level of activity was not affected by the election, and 20 new inquiries commenced in 2015.

On the final sitting day of the year, the House adjourned until Tuesday 23 February 2016. The 2016 sitting

calendar has the House sitting for 48 days, with an additional 3 reserve days, if required.

Procedural statistics for the 56th Parliament in 2015

The following statistics summarise the work of the Council in the dual roles of reviewing legislation and holding the executive government to account in 2015.

Sitting days	41
Sitting hours	326
Average length of sitting days	7.95 hours
Bills	
All bills passed by both Houses	70
Government bills passed in the Council	70
- of which were considered in committee	42
- of which were amended in the Council	17
Private members' bills introduced in the Council	11
Private members' bills passed by both Houses	0
Amendments to bills	
- circulated	591
- agreed to	94
Notices of motions given	690
Formal business	
- agreed to	250
- objected to	72
Petitions	
- received	18
- received, irregular	2
- number of signatures	142,535

Questions	
- on notice	782
- without notice	748
Orders for Papers	4
Tabled papers	1067

Legislation

Government legislation

This year saw a reduction in the number of Government bills considered by the Legislative Council, down from 84 to 70, although it should be noted that as it was an election year there were two less sitting weeks than there were in 2014. In recent years there has been a decline in the percentage of Government bills originating in the Council – down from 20 per cent in 2012 to 4 per cent in 2014. However, this year that figure increased to 10 per cent, with seven Government bills introduced in the Council.

More than half of Government bills presented to the Council were considered in detail in committee of the whole. Of the 42 bills which had amendments considered in committee of the whole, the following 17 bills had amendments agreed to:

- (1) Biosecurity Bill 2015
- (2) Child Protection Legislation Amendment Bill 2015
- (3) Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015
- (4) Courts and Other Justice Portfolio Legislation Amendment Bill 2015
- (5) Data Sharing (Government Sector) Bill 2015
- (6) Electricity Network Assets (Authorised Transactions) Bill 2015
- (7) Gaming Machines Amendment (Centralised Monitoring System) Bill 2015
- (8) Greater Sydney Commission Bill 2015
- (9) Impounding Amendment (Unattended Boat Trailers) Bill 2015
- (10) Statute Law Miscellaneous Provisions Bill 2015
- (11) Privacy and Personal Information Protection Amendment (Exemptions Consolidation) Bill 2015
- (12) Residential Tenancies and Housing Legislation Amendment (Public Housing—Antisocial Behaviour) Bill 2015
- (13) Retail Trading Amendment Bill 2015
- (14) State Insurance and Care Governance Bill 2015
- (15) Strata Schemes Development Bill 2015
- (16) Strata Schemes Management Bill 2015
- (17) Workers Compensation Amendment Bill 2015.

Overall, the House passed 94 individual amendments to Government bills in 2015, up from the 2014 figure of 60 amendments (to eleven bills).

Fifteen of the Government bills which were amended in the Legislative Council originated in the Legislative Assembly. In each case, the Assembly agreed to the amendments proposed by the Council.

For half of the bills amended in the Council, the amendments ultimately agreed to were moved by the Christian Democratic Party. The Shooters and Fishers Party successfully moved amendments to two bills, one of which – the Strata Schemes Management Bill 2015 – was also amended by the CDP. The Government moved amendments to its own bills on five occasions. The Opposition successfully moved amendments to three bills, all of which occurred during the last two sitting weeks of the year.

In 2015, the most substantially amended bill was the Electricity Network Assets (Authorised Transactions) Bill 2015, with 22 amendments. This ‘poles and wires’ bill, along with its cognate Electricity Retained Interest Corporations Bill 2015, was one of the most significant and notable pieces of legislation passed in 2015, as it provided for the leasing to the private sector of the State’s electricity network assets. The bills passed in early June, after two days of lengthy second reading debate and committee stage.

Other bills to receive intense and lengthy scrutiny by the House included the Workers Compensation Amendment Bill 2015 and cognate State Insurance and Care Governance Bill 2015, which were passed in August this year; and the Strata Schemes Development Bill 2015 and cognate Strata Scheme Management Bill 2015, which passed the House in October. The strata bills adopted a new approach to the management and development of strata schemes, and were the subject of public debate for a considerable time.

Also of note was the passage through the House in October of the Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Bill 2015 and its four cognate bills. These bills fundamentally reformed the allocation and management of fossil fuel resources in the State. While 39 amendments were considered during the committee stage, these bills were returned to the Assembly without amendment.

In the last two sitting weeks, four Government bills introduced into the House were declared urgent in order to allow them to pass through all stages. As a result, there are no Government bills sitting on the Notice Paper over the summer recess.

Disallowance of delegated legislation

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.

In 2015 the Council considered the disallowance of a regulation on three occasions, the same as the number considered in 2014. The first disallowance motion concerned the issue of gaming machines, the second

concerned racing administration fees and the third concerned game and feral animal control. All of these motions for disallowance were moved by The Greens, and each was negated.

Private members' bills

Eleven bills were introduced by private members of the Legislative Council in 2015. These were:

- (1) Alcoholic Beverages Advertising Prohibition Bill 2015
- (2) Climate Change Bill 2015
- (3) Coal Seam and Other Unconventional Gas Moratorium Bill 2015
- (4) Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2015
- (5) Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2015
- (6) Firearms Amendment (Lever Action Shotguns—Community Safety) Bill 2015
- (7) Limitation Amendment (Child Abuse) Bill 2015
- (8) National Parks and Wildlife Amendment (Reservation of Lot 490) Bill 2015
- (9) Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Bill 2015
- (10) Prevention of Cruelty to Animals Amendment (Stock Animals) Bill 2015
- (11) State Senate Bill 2015.

The House concluded debate on one of these bills: the Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Bill 2015. This bill was introduced by Mr Buckingham, and the second reading was negated on division (16:19) on 13 August 2015.

Orders for papers

Orders made under standing order 52

In 2015, only four orders were made by the House for the production of state papers under standing order 52:

- (1) 2015-2016 Budget
- (2) 2015-2016 Budget finances
- (3) Greyhound welfare
- (4) Learning management and business reform.

As noted in the 2014 Summary, on 20 November 2014 the Council authorised the Privileges Committee during the long summer recess before the general election to undertake the role usually performed by the House in dealing with reports of the independent legal arbiter on disputed claims of privilege. During this period the Privileges Committee considered one report of the independent legal arbiter, concerning a dispute on the claim of privilege over the Byron Central Hospital and Maitland Hospital order for papers, resolving that the report and documents considered by the arbiter not to be privileged be authorised to be made public. Correspondence from the Committee, the arbiters report

and the documents ordered to be made public were tabled when the House sat in May 2015.

Greyhound welfare

On Wednesday 9 September 2015, the Legislative Council agreed to an order for the production of papers from Greyhound Racing NSW. No return was received. Correspondence from the Department of Premier and Cabinet received 14 September 2015 noted that Section 5 of the *Greyhound Racing Act 2009* provides that Greyhound Racing NSW does not represent the Crown and is not subject to direction or control by or on behalf of the Government.

On Wednesday 18 November 2015, the President made a statement concerning the matter in the House, noting the seriousness of non-compliance with an order of the House, and indicating that the Clerk, with his concurrence, had sought advice from Mr Bret Walker SC on some of the legal issues raised by this matter. The President then tabled the advice of Mr Walker, received that morning.

In his advice, Mr Walker gave his opinion that bodies with public functions, such as Greyhound Racing NSW, are amendable to orders for papers addressed to them directly by the Council, and are compelled to comply with such an order. Failure to do so would result in the responsible officer being in contempt of Parliament.

The following day, Dr Kaye gave notice of a motion reaffirming the original 9 September 2015 order for papers and ordering that the Clerk communicate the terms of the order for papers directly to the Chief Executive Officer of Greyhound Racing NSW. The matter has been listed for consideration under formal business on the first sitting day in 2016.

Petitions

During 2015, the House received 18 petitions containing a total of 142,535 signatures, a reduction in the number of petitions presented from 2014, but an increase in the number of signatures due to three large petitions having been presented.

In May 2015 a sessional order was again adopted requiring ministerial responses to petitions presented to the House that contained more than 500 signatures. Eleven of the petitions presented to the House in 2015 contained more than 500 signatures and required a response from the responsible minister.

Responses to petitions were received, or are due to be received, for the following petitions:

- (1) Biosecurity Bill 2015
- (2) Child care centre at Sutherland Hospital
- (3) Draft plan of management of the Berowra Valley National Park
- (4) Irregular Petition—International trafficking and harvesting of human organs (11/08/2015 and 29/10/2015)
- (5) Make New South Wales shark fin free
- (6) National Partnership Agreement on Skills Reform

- (7) Plaza car park at Kooloobung Creek
- (8) Putrescible landfill
- (9) Satellite renal unit at Young Health Service
- (10) Transforming electricity generation in New South Wales to 100 per cent renewables.

Responses are available online via the list of petitions presented this session on the [Petitioning the Council](#) webpage.

Committees

2015 was another extremely busy year for Upper House Committees. An unprecedented 10 inquiries were still active in December 2014, following the rising of the House in November and before the March 2015 State election. These inquiries were all completed to schedule with three reporting in December 2014, six in February 2015 and one in March 2015.

A further 20 inquiries have already been initiated in the current Parliament with 11 of these inquiries reporting by November.

Of particular note, during 2015 two inquiries were conducted into the Ombudsman's investigation Operation Prospect. These inquiries were significant in their use of committee powers to obtain evidence under privilege that is subject to statutory secrecy provisions. In a landmark precedent for Upper House Committees, all inquiry participants including senior public officials co-operated in providing highly sensitive information, much of which would in any other context, be prohibited from disclosure. The Deputy Clerk, Mr Steven Reynolds, presented [a paper](#) on the importance of this issue at this year's Presiding Officers and Clerks conference.

Another high profile inquiry was conducted in May 2015 into the leasing of electricity infrastructure, which was a key election promise of the Government. The committee [reported](#) in four weeks, prior to the passage through the House of the Government's legislation to facilitate the lease.

Building on the self-reflection that occurred during the 2013 celebration 'C25' that marked the 25th anniversary of Upper House Committees, in June 2015 a select committee was established to inquire into the Legislative Council committee system. The purpose of the inquiry is to ensure Upper House Committees continue to play a key role in policy development, lawmaking and holding the executive government to account. The committee published a [discussion paper](#) in November and is currently seeking submissions.

The new parliament saw structural and procedural changes to committees. For the first time there are now six General Purpose Standing Committees (GPSCs). Before this, only five GPCs had been established each Parliament since their inception in 1997. This saw a redistribution of ministerial portfolios among the six committees. All six GPSCs elected non-government members as chairs. For the first time, the resolutions appointing subject standing committees (Law and Justice, Social Issues and State Development) included a provision for member substitutions, allowing these committees the same flexibility as GPSCs.

Upper House Committees continue to adopt innovative methods of community engagement with the inquiry into [local government in New South Wales](#) conducting an online questionnaire as part of its evidence gathering process. This proved a very popular method of engagement, with 795 responses received.

Committees also built on the legacy of the 2014 [family response to the murders in Bowraville](#) inquiry by conducting an Aboriginal cultural awareness workshop for members and staff of two committees currently inquiring into indigenous issues: [reparations for the stolen generation in New South Wales](#) and [economic development in Aboriginal communities](#). An on-line training module on Aboriginal cultural awareness has also been made available to all members and staff.

Budget Estimates this year was unique, as for the first time no government members asked questions in any hearing. This follows a trend that had been developing over the last few years for government members not to ask questions during Estimates hearings. Also during this year's Estimates, a total of 5,452 supplementary questions were received following the initial hearings – the highest ever number since the current process for supplementary questions was introduced in 2006.

A message from the Clerk

As this is the last edition of *House in Review* for 2015 I would like to convey my thanks to all those involved in its preparation this year. May I also take this opportunity to wish the readers of *House in Review* a merry Christmas, a safe holiday season and a happy new year.

David Blunt
Clerk of the Parliaments