

Standing Committee on Law and Justice

Legacy report 57th Parliament

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Committee details

Committee members

The Hon Chris Rath MLC	Liberal Party	<i>Chair</i>
The Hon Greg Donnelly MLC	Australian Labor Party	<i>Deputy Chair</i>
The Hon Lou Amato MLC	Liberal Party	
Ms Abigail Boyd MLC	The Greens	
The Hon Anthony D'Adam MLC	Australian Labor Party	
The Hon Wes Fang MLC	The Nationals	
The Hon Taylor Martin MLC	Liberal Party	
The Hon Rod Roberts MLC	Pauline Hanson's One Nation	

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- The Hon Chris Rath MLC replaced the Hon Wes Fang MLC as Chair of the committee on 29 March 2022. The Hon Wes Fang MLC replaced the Hon Niall Blair MLC as Chair of the committee on 16 October 2019. The Hon Niall Blair MLC was appointed Chair of the committee on 15 May 2019.
- Ms Abigail Boyd MLC replaced Mr David Shoebridge MLC as a substantive member of the committee on 22 April 2022.
- The Hon Scott Farlow MLC replaced the Hon Sam Farraway MLC as a substantive member of the committee from 8 July 2020.
- The Hon Sam Farraway MLC replaced the Hon Catherine Cusack MLC as a substantive member of the committee from 22 October 2019.
- The Hon Catherine Cusack replaced the Hon Natalie Ward MLC as substantive member of the committee from 31 January 2020.
- The Lou Amato MLC replaced the Hon Trevor Khan as a substantive member of the committee from 25 January 2022.
- The Hon Taylor Martin MLC replaced the Hon Catherine Cusack as substantive member of the committee from 15 March 2021.

Chapter 1 The committee

This chapter is a brief overview of the Standing Committee on Law and Justice and the committee's work in the 57th Parliament. It also outlines the purpose of this legacy report.

The purpose of a legacy report

- 1.1 The purpose of this legacy report is to provide a summary of the committee's work during the 57th Parliament. It informs any successor committee in the 58th Parliament of the committee's accomplishments and suggestions for future activity.
- 1.2 Legacy reports have also been prepared for the Standing Committee on Social Issues and the Standing Committee on State Development.

Committee overview

- 1.3 The NSW Legislative Council's Standing Committee on Law and Justice was first established on 24 May 1995.¹ The committee was reappointed in each of the subsequent parliaments, most recently on 8 May 2019, during the 57th Parliament.²
- 1.4 The committee conducts inquiries into matters concerned with law and justice in New South Wales, including legal and constitutional issues, law reform, parliamentary matters, criminal law, administrative law and the justice system, industrial relations and fair trading.³
- 1.5 In accordance with section 27 of the *State Insurance and Care Governance Act 2015*, the Standing Committee on Law and Justice supervises the operation of the insurance and compensation schemes established under New South Wales workers compensation and motor accidents legislation, including the Workers Compensation Scheme, Workers Compensation (Dust Diseases) scheme, Motor Accidents Scheme, Motor Accidents (Lifetime Care and Support) Scheme.⁴ The committee must report to the House at least once every two years in relation to each scheme.⁵
- 1.6 The committee has eight members, comprising four government members, two opposition members, and two cross bench members.⁶ The membership of the committee throughout the 57th Parliament can be found on p iv.

¹ *Minutes*, Legislative Council, 24 May 1995, pp 36-42.

² *Minutes No. 2*, Legislative Council, 8 May 2019, pp 91-97.

³ *Minutes No. 2*, Legislative Council, 8 May 2019, p 95.

⁴ Section 27 of the *State Insurance and Care Governance Act 2015*.

⁵ *Minutes No. 2*, Legislative Council, 8 May 2019, p 95.

⁶ *Minutes No. 2*, Legislative Council, 8 May 2019, p 96.

Inquiries in the 57th Parliament

- 1.7** During the 57th Parliament, the committee conducted 14 inquiries. Of these, eight related to the oversight role the committee has in relation to the Workers Compensation Scheme, Compulsory Third Party insurance scheme, Lifetime Care and Support scheme, and Dust Diseases scheme. See appendix 1 for key statistics on the work of the committee during the 57th Parliament.
- 1.8** The committee was also referred six inquiries into bills on recommendation from the Selection of Bills Committee:
- Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019
 - Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019
 - Work Health and Safety Amendment (Information Exchange) Bill 2020
 - Mandatory Disease Testing Bill 2020
 - Provisions of the Voluntary Assisted Dying Bill 2021
 - Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2021
- 1.9** The next chapter details the key findings and recommendations made by the committee for each of these reports, along with the government's response to recommendations.
- 1.10** Copies of the committee's reports and government responses to those reports are available on the committee's website www.parliament.nsw.gov.au/lawandjustice.

Chapter 2 Inquiries

This chapter provides a short summary of each inquiry undertaken during the 57th Parliament. It outlines the manner in which the inquiry was referred, a summary of key issues and the committee's recommendations.

Statutory oversight reviews

- 2.1** In accordance with section 27 of the *State Insurance and Care Governance Act 2015*, the operations of the Workers Compensation scheme, the Dust Diseases scheme, the Compulsory Third Party insurance scheme and the Lifetime Care and Support scheme are required to be supervised by a committee of the Legislative Council. The Standing Committee on Law and Justice has been designated as the committee to perform this oversight role.
- 2.2** The resolution appointing the committee requires the committee to report to the Legislative Council in relation to each scheme at least once every two years.⁷ Effectively, this meant that the committee conducted a review of each of these schemes twice in the 57th Parliament.

Reviews of the Workers Compensation scheme

- 2.3** In the previous parliament, the committee reviewed the workers compensation scheme for the first and second time since the implementation of the 2015 workers compensation reforms. The 2015 reforms had led to the creation of the State Insurance Regulatory Authority (SIRA) and Insurance and Care NSW (icare), along with SafeWork NSW in place of the dissolved WorkCover Authority.
- 2.4** During the 57th Parliament, the committee conducted two further reviews of the scheme in 2020 and 2022, outlined below.

2020 Review of the Workers Compensation scheme

- 2.5** The committee commenced this review on 18 March 2020. The committee received 25 submissions and one supplementary submission and held nine public hearings. Prior to the hearings, the committee forwarded written questions on notice to the SIRA and icare and requested an update on the government's response to the recommendations in its 2018 report.
- 2.6** The final report for the review was tabled on 30 April 2021. The committee's stated focus for this review was the performance and operations of icare. The key issues the report addressed included:
- the financial position of the Nominal Insurer and the Treasury Managed Fund
 - return to work rates in schemes managed by icare
 - icare's leadership, governance and culture, including procurement practices and the management of conflicts of interest

⁷ *Minutes No. 2*, Legislative Council, 8 May 2019, p 95.

- oversight, accountability and evaluation of the workers compensation scheme, including historical errors identified in calculating pre-injury average weekly earnings and use of the whole person impairment rating as a determinant of entitlements.

2.7 The committee made 22 findings and nine recommendations. Among these was a recommendation that icare, in consultation with SIRA, investigate and implement measures to reduce medical expenses, including measures to address over-utilisation and over-billing. On its own recommendation, the committee went on to hold a further hearing on 14 December 2021 to review the status of reforms in icare and the implementation of various reviews of the scheme.

2.8 The government response was received on 3 November 2021. The government supported five recommendations and noted the balance of four recommendations. Significantly, the committee was advised that the government had commissioned the Hon Robert McDougall QC to conduct an independent review of icare and the *State Insurance and Care Governance Act 2015*. In a report published on 30 April 2021, the McDougall review made 49 recommendations. The government indicated work was under way in respect of 35 recommendations and that it would bring forward a bill to address a further eight recommendations.

2022 Review of the Workers Compensation scheme

2.9 The committee commenced a second review on 17 June 2022 with a focus on the increase in psychological injuries. The committee received 43 submissions as well as 79 pro forma contributions from injured workers. It held two public hearings and a private roundtable discussion with injured workers. Before conducting hearings, the committee forwarded written questions on notice to SIRA and icare and requested an update on the government's response to the recommendations in its 2021 report.

2.10 Although the committee has not formally tabled a report from this review, it resolved for the Legislative Council to consider referring the evidence from the *2022 Review of the Workers Compensation scheme* to the committee in the 58th Parliament, to form part of the process for the next review. This occurred because the committee could not reach agreement as to whether further evidence needed to be gathered relevant to the financial position of the workers compensation scheme and due to a further media report of underpayments by icare.

Committee reflections

The committee may be interested to examine the following issues in its next statutory review of the worker's compensation scheme:

- icare's underpayment of workers due to the failure to apply the relevant indexation to weekly benefits between 2012 and 2019
- icare's financial position and the financial sustainability of the workers compensation scheme.

Reviews of the Compulsory Third Party insurance scheme

2.11 The current Compulsory Third Party (CTP) insurance scheme was established in 2017. The scheme, requiring all motorists to purchase insurance when registering a vehicle, protects

owners against liability for injury or death of another person. In the 56th Parliament, the committee conducted its first review of the new scheme.

2.12 There were two reviews of the Compulsory Third Party insurance scheme in the 57th Parliament, the first completed in July 2021, and the latter in February 2023.

2020 review of the Compulsory Third Party insurance scheme

2.13 The committee commenced this review on 21 September 2020. The committee received 10 submissions and four supplementary submissions. The committee held two public hearings, combining witnesses for this inquiry with the *2020 review of the Lifetime Care and Support scheme*. Before conducting hearings, the committee forwarded written questions on notice to the SIRA and icare.

2.14 The final report for the review was tabled on 30 July 2021. The report considered stakeholders' views on the operation of the CTP scheme, discussing key issues including the:

- operation of the no-fault statutory benefits period
- definition of the minor injury test and its impact on an injured person's entitlements
- operation of the 20 month 'cooling off' period in which a person with a non-minor injury must wait before making a claim for damages
- internal review and dispute framework, and the challenges faced by claimants when navigating the scheme without legal support
- road safety concerns expressed by road users, including motorcyclists and the point-to-point transport sector
- transparency and accountability of the regulator's data on premium pricing and insurer profits.

2.15 The committee made one recommendation, as follows:

That the current statutory review of the *Motor Accident Injuries Act 2017* closely consider the following issues for reforms to the scheme:

- whether the no fault statutory benefit period should be expanded to a minimum of 52 weeks
- how the minor injury definition can be amended to ensure it does not exclude those with genuine minor injuries, including in relation to psychological claims
- whether the 20 month cooling off period should be reduced or abolished, to facilitate the faster resolution of some claims
- the provision of legal support to claimants in the scheme, particularly in relation to disputes, including the internal review process
- how to improve transparency and accountability in relation to insurer profits and premium setting.

2.16 The government response was received on 30 November 2021. The government supported the committee's recommendation and advised that the independent statutory review had considered the issues listed.

2022 review of the Compulsory Third Party insurance scheme

- 2.17** This review commenced on 15 August 2022. The committee received 11 submissions and four supplementary submissions, and held a public hearing on 18 November 2022, combining witnesses for this inquiry with the *2022 review of the Lifetime Care and Support scheme*. Before conducting hearings, the committee forwarded written questions on notice to the SIRA and icare.
- 2.18** The key issues considered in this review included:
- the 73 recommendations and 20 suggestions arising from the 2021 Statutory Review of the *Motor Accident Injuries Act 2017*, relating to the schemes design, objectives, implementation and regulation of the scheme
 - the operation and use of the transitional excess profits and losses or 'TEPL' mechanism, and the return of \$269.7 million in excess insurer profits following the 2021 and 2022 assessments by the SIRA
 - matters relating to the operation of the Personal Injury Commission
 - issues raised by road user groups regarding road safety, equity in the point to point transport sector, motorcycles, interstate jurisdictional issues and e-scooters
 - the scheme's legal support framework, and whether the Independent Legal Assistance and Review Service (ILARS), operated by the Independent Review Office and currently available to injured workers, should be extended to support people injured in motor accidents
 - scheme performance and affordability.
- 2.19** The final report was tabled on 24 February 2023 and made three recommendations. The government response is due 24 May 2023.

Committee reflections

The committee may be interested to examine the following issues in its next statutory review of the Compulsory Third Party Insurance scheme, due to commence in 2024:

- the provision of legal support to claimants
- insurer compliance and scheme performance
- the outcome of the Statutory Review of the *Personal Injury Commission Act 2020*
- the ongoing implementation of the recommendations of the Statutory Review of the *Motor Accident Injuries Act 2017*, including the definitions of threshold and minor injuries.

Reviews of the Lifetime Care and Support scheme

- 2.20** The Lifetime Care and Support (LTCS) scheme provides support for people severely injured in a motor vehicle accident in New South Wales, regardless of fault. The scheme was introduced in 2006, and subject to reform in 2017. It is funded through the Lifetime Care and Support

Scheme Fund, a levy which is paid by motorists when they purchase a Compulsory Third Party green slip insurance policy.⁸

2.21 There were two reviews of the LTCS scheme in the 57th Parliament: one in 2020 and the most recent concluding in February 2023.

2020 review of the Lifetime Care and Support scheme

2.22 The committee commenced this review on 21 September 2020. The committee received 4 submissions. The committee held two public hearings, combining witnesses for this inquiry with the *2020 Review of the Compulsory Third Party insurance scheme*. Before conducting hearings, the committee forwarded written questions on notice to the SIRA and icare.

2.23 A report for the review was tabled on 30 July 2021, addressing the following key issues:

- the long-term financial stability of the LTCS scheme, including the long tailed nature of the scheme, impact of the COVID-19 pandemic, and the findings of the Auditor-General
- Support provided by the 35 attendant care providers on contact, including
 - the certification requirements and service standards that apply to care and support providers
 - workforce challenges associated with delivering attendant care services when National Disability Insurance Scheme and aged care sector needs are increasing
 - additional supports for the large cohort of 15–24 year old scheme participants and their carers, including mental health considerations.

2.24 The committee stated that it will continue to monitor the financial position of the scheme closely, including increases in attendant care costs and whether there will be a stabilisation of costs passed on to motorists, and expressed continued interest in standards for LTCS providers. The report did not make any recommendations.

2.25 As there were no recommendations made, the government was not required to respond to the committee's report.

2022 review of the Lifetime Care and Support scheme

2.26 The committee commenced this review on 15 August 2022. The committee received six submissions and held a public hearing on 18 November 2022, combining witnesses for this inquiry with the *2022 review of the Compulsory Third Party Insurance scheme*. Before conducting hearings, the committee forwarded written questions on notice to the SIRA and icare.

2.27 The review report was tabled on 24 February 2023. The report examined the following matters concerning the operation of the LTCS scheme:

- the financial position of the scheme, including the decline in its insurance ratio and increases to the LTCS Fund levy
- developments relating to the provision of treatment and attendant care services to scheme participants.

⁸ icare, *Insurance and Care Annual report 2015-16, 2016*, p 70

- 2.28** The report also discussed the commencement and financial position of the Compulsory Third Party (CTP) Care program. While separate from the LTCS scheme, CTP Care is also managed by the Lifetime Care and Support Authority within icare and has a similar funding structure and service remit.
- 2.29** The report also reviewed the dispute resolution framework for the Lifetime Care and Support Authority as it relates to both the LTCS scheme and CTP Care.
- 2.30** The committee made one recommendation: that the *Personal Injury Commission Act 2020* be amended to clarify the legislative power of the Independent Review Office to deal with disputes related to the Lifetime Care and Support Authority.
- 2.31** The government response is due 24 May 2023.

Committee reflections

In addition to its ongoing role overseeing the financial position of the LTCS scheme and the provision of attendant care services to scheme participants, the committee may wish to examine the following issues in its next statutory review of the LTCS scheme, due to commence in 2024:

- the operation and financial position of the CTP Care program
- the dispute resolution framework for the Lifetime Care and Support Authority
- the outcome of the Statutory Review of the *Personal Injury Commission Act 2020*.

The committee may wish to consider the timing and structure of its reviews of the CTP insurance scheme and LTCS scheme, which have been conducted concurrently and reported on separately every two years since 2018. This is relevant in light of recent legislative and policy changes, and a requirement under the *Motor Accident Injuries Act 2017* that there must be regular statutory reviews.

Reviews of the Dust Diseases scheme

- 2.32** The Workers Compensation (Dust Diseases) scheme is a no-fault workers compensation scheme for people who have developed a compensable dust disease from occupational exposure to dust as a worker in New South Wales, and their dependents.
- 2.33** There were two reviews of the Dust Diseases scheme in the 57th Parliament: one in 2019 and the most recent review report tabling in June 2022.

2019 review of the Dust Diseases scheme

- 2.34** Ordinarily, the committee's oversight review of the Dust Diseases scheme considers the scheme's operation and performance more broadly. However, on this occasion, the committee chose to focus its review on the response to silicosis in the manufactured stone industry, following concerns raised during the two previous reviews of the scheme over the re-emergence of silicosis as a significant health issue.

- 2.35** The committee commenced this review on 8 May 2019. The committee received 17 submissions, held five public hearings and conducted one site visit to icare's Medical Centre at 115 Pitt Street, Sydney. Before conducting hearings, the committee forwarded written questions on notice to SIRA and SafeWork NSW and requested an update on the government's response to the recommendations in its 2018 report.
- 2.36** The key issues the review addressed included:
- the nature and prevalence of silicosis and other silica-related health conditions in the manufactured stone industry, including challenges and limitations to the available data
 - the effectiveness of medical screening processes and access to scanning facilities to better identify silicosis cases
 - support for workers diagnosed with silicosis, and silicosis claims and scheme liability
 - whether manufactured stone products can be handled safely or should be banned
 - safety and control measures to prevent and minimise exposure to crystalline silica, including product labels, workplace exposure standards and wet cutting
 - compliance within the manufactured stone industry and the effectiveness of the regulatory framework, including a proposal for self-regulation
 - the development of an industry code of practice, and the establishment of a central dust disease register and mandatory notification scheme.
- 2.37** The final report was tabled on 24 March 2020 and made 14 recommendations. Among these was a recommendation that icare provide a free screening service for all workers within the manufactured stone industry. Other recommendations centred on protecting workers from exposure to crystalline silica through control measures including mandatory product labels, a ban on dry cutting and reducing the workplaces exposure standard.
- 2.38** The government response was received on 24 September 2020. The government supported six recommendations, supported seven recommendations in principle and did not support one recommendation.
- 2.39** Significantly, the committee was advised that icare would provide free screening for all NSW workers within the manufactured stone industry for 12 months, and that the practice of dry cutting of manufactured stone would be banned, effective from 1 July 2020.

2021 review of the Dust Diseases scheme

- 2.40** The committee commenced this review on 1 September 2021. The committee received 17 submissions and two supplementary submissions and held two public hearings. Before conducting hearings, the committee forwarded written questions on notice to icare, SIRA and SafeWork NSW and requested an update on the government's response to the recommendations in its 2020 report.
- 2.41** The final report for the review was tabled on 10 June 2022.

- 2.42 The committee's stated focus was on the government's progress in relation to the prevention, detection and management of silicosis in the manufactured stone industry. Key issues addressed included:
- the extent of the issue, including the number of silicosis cases in New South Wales
 - silicosis as a disease of concern in other industries and occupations, including tunnelling, quarrying, cement, mining and construction
 - developments in other jurisdictions and nationally since the committee's last report
 - the adequacy of regulatory measures to prevent or minimise exposure to crystalline silica and compliance and enforcement of standards by the regulator
 - the responsibility of manufacturers and suppliers for warning of the risks associated with manufactured stone products, for example by using product labels and safety data sheets
 - whether all workers are being reached by silicosis screening programs, and whether the screening that is being done is adequate to detect silicosis
 - the accessibility and financial position of the Dust Diseases scheme, including the definition of a dust disease under the Act
 - the support and compensation available under the Dust Diseases scheme, including access to vocational education and training.
- 2.43 The committee made 12 recommendations. Among these were recommendations to urgently take steps to establish a licensing scheme for businesses working with manufactured stone in New South Wales, and to support a ban on manufactured stone should the industry not demonstrate sufficient improvement by July 2024.
- 2.44 The government response was received on 12 September 2022. The government supported two recommendations, supported two recommendations in part and five recommendations in principle, noted two recommendations and did not support one recommendation. Significantly, the committee was advised that an independent review would be conducted of supports and services to workers under the Dust Diseases scheme.

Committee reflections

The committee may be interested to examine the following issues in its next review of the Dust Diseases scheme:

- progress towards a licensing scheme for working with manufactured stone, including the nationwide consultation commenced by SafeWork Australia in June 2022
- progress towards improving health monitoring requirements for workers exposed to respirable crystalline silica, including national guidance to identify people at risk, and improving the quality, frequency and coverage of health screening assessments
- outcomes of the independent review into supports and services to workers under the scheme
- the need for stronger, coordinated action at the national level, and areas where New South Wales could continue to strengthen its response.

Inquiries into bills

- 2.45** The Selection of Bills Committee was established by the Legislative Council on 23 November 2017. This committee was given the power to report to the House on whether a bill should be referred to one of the subject standing committees, such as the Standing Committee on Law and Justice.
- 2.46** On recommendation of the Selection of Bills Committee, six bills were referred to the Standing Committee on Law and Justice during the 57th Parliament, each of which is discussed below.

Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019

- 2.47** The Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019 was referred to the committee by the Legislative Council on 30 May 2019. While the inquiry related to matters considered in the committee's 2014 inquiry into the family response to the murders in Bowraville, it was limited to examining the legal implications of the proposed amendments in the bill.
- 2.48** The bill, introduced by Mr David Shoebridge MLC, sought to amend the *Crimes (Appeal and Review) Act 2001* to extend an exception to the rule against double jeopardy in New South Wales in relation to an acquitted person where previously inadmissible evidence became admissible. Under current law, the NSW Court of Criminal Appeal may, on the application of the Director of Public Prosecutions, order the retrial of an individual previously acquitted of a serious crime in certain specific situations, including for a life sentence offence such as murder, where there is 'fresh' and 'compelling' evidence. The bill sought to expand the definition of 'fresh evidence'.⁹
- 2.49** Early in the inquiry the committee travelled to Bowraville for a private meeting with the families of Colleen Walker-Craig, Evelyn Craig and Clinton Speedy-Duroux, publishing a report on key messages from that meeting on the inquiry website.
- 2.50** The committee received 29 submissions and two supplementary submissions. It held one public hearing on 24 July 2019, taking evidence from NSW Government representatives and members of the legal and academic communities, including from the Jumbunna Institute for Indigenous Education and Research who proposed an alternate amendment to the *Crimes (Appeal and Review) Act 2001* which the committee report discusses in detail.
- 2.51** The committee tabled its report on 30 August 2019, making two recommendations: that the bill not proceed and that the NSW Government consider the alternative reform model proposed by Jumbunna representatives.
- 2.52** The committee noted that the majority of legal stakeholders consider that the strictly limited exceptions to the law of double jeopardy in New South Wales strike the right balance and should not be amended. The committee cited 'a great deal of evidence from the overwhelming majority of the legal fraternity that any change to the laws of double jeopardy would cause a significant erosion to the principle of finality'. It acknowledged, however, that this position was contested

⁹ Media release, Niall Blair (Chair), *Proposed changes to double jeopardy law*, 5 June 2019.

by Jumbunna representatives and Professor David Hamer of the University of Sydney Law School, along with the Bowraville families.¹⁰

- 2.53** In respect of Jumbunna's alternative reform model, the committee noted the likely effect would reduce finality 'in a very limited number of cases' given that 'hurdles would remain in the system' including the requirement for agreement from the Attorney-General or Director of Public Prosecutions to seek a retrial, and the Court of Criminal Appeal's satisfaction that the evidence was fresh and compelling and that it is in the interests of justice to make the order.¹¹ The committee expressed a view that 'it is appropriate for the NSW Government to consider' Jumbunna's model.¹²
- 2.54** The Government responded to the committee's report on 26 February 2020, indicating that the Government did not intend to pursue the alternative reform model proposed.
- 2.55** The bill did not proceed and will lapse at the end of the 57th Parliament.

Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019

- 2.56** The Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019 was referred to the committee by the Legislative Council on 6 June 2019.
- 2.57** The bill sought to amend the *Mining Act 1992* to provide that persons financially affected by the cancellation of exploration licence 7270 over certain land at Doyles Creek, cancelled as a result of the Independent Commission Against Corruption (ICAC) findings in Operation Acacia, could apply to an independent arbitrator for an assessment and determination of compensation for the licence cancellation.
- 2.58** Reverend the Hon Fred Nile MP stated in his second reading for the bill that '[t]he Bill is intended to right a wrong', explaining '[B]ecause of the cancellation Bill, and through no fault of their own, many face the prospect of their investments being worth a tiny fraction of what they originally were ... The Bill sets in train a fair process for fair compensation.'¹³
- 2.59** The committee received 25 submissions and one supplementary submission, and held a public hearing on 9 August 2019, receiving evidence from representatives of NuCoal and individual shareholders.
- 2.60** The committee tabled its report on 30 October 2019, highlighting outstanding issues that could not be resolved during the inquiry including the powers of the independent arbiter to determine claims and the structure and eligibility requirements for any compensation.
- 2.61** The committee made two recommendations: that the Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019 not proceed in its current form, and that the NSW Government address the outstanding matters raised during this inquiry, where appropriate, including the issue of compensation for innocent shareholders.

¹⁰ Report 71, August 2019, p 72.

¹¹ Report 71, August 2019, pp 72–3.

¹² Report 71, August 2019, pp 73.

¹³ Report 71, August 2019, pp 16–17.

2.62 The Government responded to the committee's report on 30 April 2020, supporting the committee first recommendation and noting the committee's second recommendation.

2.63 The bill did not proceed and will lapse at the end of the 57th Parliament.

Work Health and Safety Amendment (Information Exchange) Bill 2020

2.64 The Work Health and Safety Amendment (Information Exchange) Bill 2020 was referred to the committee on 4 August 2020.

2.65 The bill sought to amend the *Work Health and Safety Act 2011* to enable information sharing between NSW Health and Work Health and Safety regulators in relation to silicosis diagnoses, to ensure worker safety. This bill was described as 'one element of a wider government response to the increasing number of silicosis diagnoses'.¹⁴

2.66 The committee received 8 submissions and held a public hearing on 20 August 2020.

2.67 The committee tabled its final report on 11 September 2020, recommending that the Legislative Council proceed to debate the bill, and that the NSW Government address the committee comments and concerns identified by stakeholders during debate in the House. The committee commented that:

Based on the evidence received, the committee understands inquiry participants' calls for greater action on dust diseases more generally, such as the establishment of a state dust diseases register, extending the scheduled medical condition classification to other dust diseases, and creating a registry of cases to survey at-risk workers, and in turn, better understand silicosis and other dust diseases.¹⁵

2.68 The bill was debated in and passed by the Legislative Council on 22 October 2020, and received assent on 27 October 2020.

2.69 The Government responded to the committee's report on 11 March 2021, noting the committee's recommendation and the bill's passage, stating that it would strengthen the information-sharing framework between NSW Health and work health and safety regulators and support a whole of government response approach to addressing occupational disease.

Mandatory Disease Testing Bill 2020

2.70 The Mandatory Disease Testing Bill 2020 was referred to the committee by the Legislative Council on 17 November 2020, with a reporting date of 17 February 2021.

2.71 The bill sought to provide for mandatory blood testing of a person in circumstances where the person's bodily fluid comes into contact with a health, emergency or public sector worker as a result of the person's deliberate action and the worker may be at risk of contracting a blood-borne disease.,

¹⁴ Report 74, September 2022, p 2.

¹⁵ Report 74, September 2022, p 11.

- 2.72** The then Minister for Police and Emergency Services, the Hon David Elliott MP, noted in his second reading speech that 'there is currently no mechanism in New South Wales that requires or compels a person whose bodily fluids were involved in an exposure incident to be tested for infectious diseases. The Mandatory Disease Testing Bill 2020 seeks to address this gap by introducing a scheme that allows mandatory testing orders to be made.'¹⁶
- 2.73** The committee received 28 submissions and held two public hearings. During the inquiry, the committee considered significant concerns raised by stakeholders and noted that there were differing views of inquiry participants on a number of the provisions of the bill.
- 2.74** The committee recommended that the Legislative Council proceed to debate the Mandatory Disease Testing Bill 2020, and that the concerns identified by stakeholders as set out in the report be addressed during debate in the House. The committee made comment in relation to the expansion of the Hepatitis in Prisons Elimination program to reduce the identified risks to inmates and prison officers.
- 2.75** The committee tabled its report on 30 April 2021, and amendments to the bill were debated in the Legislative Council on 13 May 2021. The bill passed Parliament on 13 May 2021 and received assent on 17 June 2021.

Provisions of the Voluntary Assisted Dying Bill 2021

- 2.76** The provisions of the Voluntary Assisted Dying Bill 2021 were referred to the Standing Committee on Law and Justice for inquiry and report on 19 October 2021. The terms of reference required the committee report by the first sitting day of 2022, which was later resolved as 22 February 2022.
- 2.77** The private members bill sought to:
- enable eligible persons with a terminal illness to access voluntary assisted dying
 - establish a procedure for, and regulate access to, voluntary assisted dying
 - establish the Voluntary Assisted Dying Board to oversee matters relating to voluntary assisted dying.¹⁷
- 2.78** The bill, as introduced in the Legislative Assembly by Mr Alex Greenwich MP, the Member for Sydney, was unique in that it was co-sponsored by 28 members across the Legislative Council and the Legislative Assembly. This included cosponsors from the government, the opposition and the crossbench.¹⁸
- 2.79** The committee received 3,070 submissions (107 of which were published) and three supplementary submissions, and held three public hearings, where it heard from over 75

¹⁶ David Elliott, second reading speech, Mandatory Disease Testing Bill 2020, Legislative Assembly, *Hansard*, 11 November 2020, p 4521.

¹⁷ Media release, Wes Fang (Chair), *Parliamentary inquiry opens into the NSW Voluntary Assisted Dying Bill*, 12 October 2021.

¹⁸ Report 79, February 2022, p 1.

witnesses. The committee made available an online questionnaire and received around 39,000 responses.

- 2.80** The committee heard from stakeholders who both supported and opposed the bill, including various advocacy groups, academics, medical professionals, religious leaders and private individuals. The committee noted that the purpose of the inquiry was to ensure stakeholders could place their views on the record, and for these views to be consolidated in a report that would inform the House and assist with debate.
- 2.81** Given the lack of consensus as to the merits of the bill amongst stakeholders and committee members, the report did not make recommendations about the bill itself, but rather, outlined the background of the bill and key arguments on both sides.
- 2.82** Key arguments in support of the bill that were outlined in the report are set out below:
- the need to introduce a voluntary assisted dying (VAD) scheme as a means of avoiding unnecessary suffering and maintaining personal dignity for people with a terminal illness
 - that the bill proposed a VAD scheme that was effective, balanced and proportionate
 - that the bill contained robust safeguards to prevent coercion or abuse
 - there is evidence regarding the successful operation of VAD schemes internationally and interstate.¹⁹
- 2.83** Key arguments in opposition of the bill that were outlined in the report are set out below:
- the potential for abuse and coercion within the VAD scheme, including people with a terminal illness feeling like a societal burden given the availability of the scheme
 - concerns amongst the medical profession regarding errors relating to diagnosis and prognosis
 - that the bill reflected a fundamental shift away from the medical profession's focus on preserving life
 - that VAD was being sought after due to a lack of access to palliative care, and that this should be remedied before introducing a VAD scheme.²⁰
- 2.84** The committee tabled its report on 22 February 2022 without taking a position on the bill, and ultimately recommended that the Legislative Council proceed to consider the bill.
- 2.85** The bill, which had passed the Legislative Assembly with amendments on 26 November 2021, was debated in the Legislative Council in May 2022. The bill was passed with amendments by the Legislative Council on 19 May 2022, with these amendments being agreed to by the Legislative Assembly and passing Parliament on the same day. The bill then received assent on 27 May 2022.

¹⁹ Report 79, February 2022, p 13.

²⁰ Report 79, February 2022, p 24.

Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2021

- 2.86** The Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2021 was referred to the committee on 23 November 2021 following the bill's introduction into the Legislative Council by Ms Cate Faehrmann MLC.
- 2.87** The bill sought to amend the *Road Transport Act 2013* to provide that drug driving offences do not apply if the only drug detected in a person's system is delta-9-tetrahydrocannabinol (also known as THC) obtained and administered for medicinal purposes.²¹
- 2.88** The committee received 106 submissions and two supplementary submissions and held one public hearing on 16 June 2022, receiving oral evidence from 22 witnesses. In acknowledging the contribution of individual contributors to the inquiry, the committee commented:
- We acknowledge the key concerns of medicinal cannabis users and their advocates that the present law operates unfairly in numerous ways: it presumes impairment in the presence of THC, it conflates medicinal and recreational cannabis use, and it imposes harsh penalties on those who benefit from or are only able to access treatment with medicinal cannabis products that contain THC. The committee accepts that the current laws are having a negative impact on some medicinal cannabis users and for this reason, encourages the NSW Government to partner with experts and academics in the field to develop the evidence base necessary to resolve the current uncertainty and minimise the negative impact.²²
- 2.89** Concerns raised by some stakeholders regarding the risk to road safety in proceeding with the bill included:
- the unknown extent and duration of driving impairment caused by medicinal products containing THC
 - the difficulty in measuring impairment of drivers who have used products containing THC, including the challenge of patients self-assessing with guidance from their doctors
 - the potential abuse of the exception by recreational users.
- 2.90** The committee commented that 'a better understanding of the impairing effects of medicinal cannabis products that contain THC is a fundamental and necessary precursor to law reform in this area'. It noted that 'researchers based in New South Wales expressed preparedness and willingness to commence world-leading studies to better investigate the real impact of medicinal cannabis on driving'.²³
- 2.91** The committee tabled its report on 11 August 2022, recommending that the Legislative Council proceed to debate the bill, and that the concerns identified by stakeholders as set out in the report be addressed during debate in the House.
- 2.92** The Bill was debated in the Legislative Council on 17 November 2021 and negatived on 12 October 2022.

²¹ Report 81, August 2022, p 1.

²² Report 81, August 2022, p 27.

²³ Report 81, August 2022, p 28.

Appendix 1 At a glance

This appendix provides key statistics on the work of the committee during the 57th Parliament.

Table 1 2020 review of the workers compensation scheme

No. of submissions	25
No. of supplementary submissions	1
No. of hearings	9
No. of site visits	0
Tabling date	30 April 2021

Table 2 2022 review of the workers compensation scheme

No. of submissions	43
No. of proforma submissions	79
No. of hearings	2 hearings and 1 private roundtable
No. of site visits	0
Tabling date	-

Table 3 2020 review of the Compulsory Third Party insurance scheme

No. of submissions	10
No. of supplementary submissions	4
No. of hearings	2 (<i>combined with the 2020 review of the Lifetime Care and Support scheme</i>)
No. of site visits	0
Tabling date	30 July 2021

Table 4 2022 review of the Compulsory Third Party insurance scheme

No. of submissions	11
No. of supplementary submissions	4
No. of hearings	1 (<i>combined with the 2022 review of the Lifetime Care and Support scheme</i>)
No. of site visits	0
Tabling date	24 February 2023

Table 5 2020 review of the Lifetime Care and Support scheme

No. of submissions	4
No. of supplementary submissions	0
No. of hearings	2 (<i>combined with 2020 review of the Compulsory Third Party Insurance scheme</i>)
No. of site visits	0
Tabling date	30 July 2021

Table 6 2022 review of the Lifetime Care and Support scheme

No. of submissions	6
No. of supplementary submissions	0
No. of hearings	1 (<i>combined with the 2022 review of the Compulsory Third Party Insurance scheme</i>)
No. of site visits	0
Tabling date	24 February 2023

Table 7 2019 review of the Dust Diseases scheme

No. of submissions	17
No. of supplementary submissions	0
No. of hearings	5
No. of site visits	1
Tabling date	24 March 2020

Table 8 2021 review of the Dust Diseases scheme

No. of submissions	17
No. of supplementary submissions	2
No. of hearings	2
No. of site visits	0
Tabling date	10 June 2022

Table 9 Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019

No. of submissions	29
No. of supplementary submissions	2
No. of hearings	1
No. of site visits	1 private meeting
Tabling date	30 August 2019

Table 10 Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019

No. of submissions	25
No. of supplementary submissions	1
No. of hearings	1
No. of site visits	0
Tabling date	30 October 2019

Table 11 Work Health and Safety Amendment (Information Exchange) Bill 2020

No. of submissions	8
No. of supplementary submissions	0
No. of hearings	1
No. of site visits	0
Tabling date	11 September 2020

Table 12 Mandatory Disease Testing Bill 2020

No. of submissions	28
No. of supplementary submissions	0
No. of hearings	2
No. of site visits	0
Tabling date	30 April 2021

Table 13 Provisions of the Voluntary Assisted Dying Bill 2021

No. of submissions	3,070
No. of supplementary submissions	3
No. of hearings	3
No. of site visits	0
Tabling date	22 February 2022

Table 14 Road Transport Amendment (Medicinal Cannabis-Exemptions from Offences) Bill 2021

No. of submissions	106
No. of supplementary submissions	2
No. of hearings	1
No. of site visits	0
Tabling date	11 August 2022