

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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4 to 6 April 2017*

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

The House debated three government bills this week, the State Revenue Legislation Amendment Bill 2017, the Greyhound Racing Bill 2017, and the Transport Administration Amendment (Transport Entities) Bill 2017. Over the last few years, the House and its committees have devoted a considerable amount of time to the greyhound racing industry, including a select committee tabling two reports, the passage of legislation banning the industry, and several standing order 52 orders for papers. The passage of the Greyhound Racing Bill 2017 reverses the previous legislative ban, which was due to take effect by June 30 2017.

Devastating floods hit the north coast of New South Wales in the aftermath of Cyclone Debbie on the weekend of 1 to 2 April 2017. On Thursday three notices of motions about this flooding were debated together, providing an opportunity for the House to express its condolences for those who tragically lost their life, those whose homes and livelihoods were lost, and the contributions of emergency and volunteer services helping communities in need. The House also debated two bills during private members business – one regarding the vaccination of children attending child care facilities and the other concerning registered nurses in nursing homes.

The House stands adjourned until Tuesday 2 May 2017.

Government business

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

[Greyhound Racing Bill 2017](#)

House of origin: Legislative Assembly

In August 2016 the House passed the Greyhound Racing Prohibition Bill 2016 to ban the greyhound racing industry. This was in response to community concern over allegations of widespread animal cruelty within the industry and the report of a special commission of inquiry into the industry (see earlier [House in Review](#)). However, after further consideration in the wake of the response to the ban, the Government subsequently established the Greyhound Industry Reform Panel to identify a new regime that would protect animal welfare and allow the industry to continue to operate. In February 2017, the panel reported with 122 recommendations.

The bill implements all but one recommendation made by the Reform Panel. The bill repeals the *Greyhound Racing Prohibition Act 2016* to remove the ban on greyhound racing which would otherwise have taken effect on 1 July 2017.

The bill separates the commercial and regulatory functions of the industry and establishes a Greyhound Welfare and Integrity Commission to regulate the industry in the State, while retaining Greyhound Racing NSW as the body responsible for the operation of the industry. The bill also creates a greyhound industry animal welfare committee to advise the Commission on animal welfare related issues, including matters relating to the development of a Code of Practice concerning greyhound welfare. The bill amends the Crimes Act 1900 to create a new offence for serious animal cruelty, and also amends the Prevention of Cruelty to Animals Act 1979 to prohibit the use of animal carcasses or products in training greyhounds.

The bill also requires Greyhound Racing New South Wales to hold an operating licence to act as the industry's commercial body, enabling the government to set the higher order requirements and conditions for the industry's operation. Industry participants will be required to register their greyhounds and pay a bond and annual registration fee. The Commission's inspectors will be able to require information from and search premises of industry participants. Should any one fail to comply with industry regulations, the Commission can impose a financial penalty, or suspend, cancel or impose conditions on a registration, and disqualify or, if required, prohibit an industry participant from greyhound racing. Greyhound Racing NSW may also take disciplinary action against racing clubs. The Parliamentary Secretary noted that the government will provide \$41 million to assist the industry with the establishment and capital upgrade of the new regulatory structure.

The Opposition did not oppose the bill, but was concerned about the lack of details regarding the government's financial contribution and requested that this be provided up-front rather than in instalments over five years.

The Christian Democratic Party (CDP) and the Shooters, Fishers and Farmers Party (SFFP) supported the bill. The CDP reiterated that its primary concern was with how the ban would affect people who rely on greyhound racing for a living. The SFFP underscored its long-term support for the greyhound industry and queried whether the financial contribution from the Government was sufficient to sustain the proposed regulatory structure.

The Greens and the Animal Justice Party (AJP) opposed the bill. Both parties condemned the reversal of the ban and expressed concerns that the reversal would result in the continuation of animal cruelty. The Greens were critical of funding to the industry and argued that the bill lacked detail on the commitment to animal welfare. The second reading was agreed to on division (Ayes: 32/ Noes: 5).

In the committee of the whole stage, 32 amendments were considered—AJP (19), CDP (1), Greens (9), and SFF (3). The AJP moved amendments so that the management of greyhound adoption programs would transfer from Greyhound Racing NSW to the Integrity Commission, publicise the Commission's strategic plans and inquiries, prevent individuals who previously served as a racing club official from being appointed to the board of directors of Greyhound Racing NSW, require the Code of Practice be made no later than three months after the date of assent to the bill, encourage people to report live baiting to police, separate baiting animals from where greyhounds are kept, prevent breeders from exporting greyhounds to another state or country and to create a criminal offence for culling a greyhound that is not injured or sick. All amendments were negated, either on the voices or by division.

The Greens moved amendments to minimise ministerial directives in the development of the Code of Practice, to record greyhound deaths in the Commission's annual report, set an annual cap on breeding greyhounds and make the greyhound register publicly available. All the Greens amendments were also negated.

The SFFP moved amendments to provide further financial assistance to the Commission and Greyhound Racing NSW to meet their operating costs, and establish a parliamentary committee within three months of the assent to the bill to review the adequacy of the funding. These amendments were negatived. The CDP moved one amendment that allows only the Commission to make a variation to the industry Code of Practice. The committee of the whole agreed to this, and the bill was agreed to by the committee with one amendment (CDP).

The third reading of the bill was agreed to on division (Ayes: 30/ Noes: 5). The bill was returned to the Legislative Assembly with an amendment to which the Assembly subsequently agreed. The Greens subsequently lodged a protest against the bill, which was forwarded to His Excellency the Governor.

[State Revenue Legislation Amendment Bill 2017](#)

House of origin: Legislative Assembly

The object of this bill is to make miscellaneous changes to certain State revenue legislation, as well as various Acts that will permit disclosures to the Australian Charities and Not-for-profits Commission.

The bill seeks to clarify the application of, and matters addressed within the Duties Act 1997, making further provision in relation to the duties and liabilities of landholders. In particular, the Bill makes provision in relation to the tracing of interests through linked entities of a unit trust scheme or company to determine whether a scheme or company is a landholder, and extends an existing anti-avoidance measure to ensure it covers agreements for the sale or transfer of land holdings. Currently, some lessees of Crown land who are liable for land tax fail to lodge returns with the Office of State Revenue because they are not aware of their potential liability. In order to minimise these situations, the bill requires Crown bodies and councils to make lessees aware of a potential land tax liability, and the amendment ensures lessees are able to take into account the cost of land tax in negotiating lease payments.

The bill also amends the Payroll Tax Act 2007 so that wages paid under the Commonwealth program 'Supporting Leave for Living Organ Donors' are exempt from payroll tax. The bill also updates an exemption from payroll tax that applies to certain motor vehicle allowances, reflecting changes in Commonwealth legislation. Speaking to the bill, the Parliamentary Secretary noted that the suite of reforms will keep tax legislation effective and up to date.

The Opposition did not oppose the Bill, but noted that the reforms raised some question about the potential use of the changes to provide a 'free-ride' for wealthy, self-managed superannuation schemes and trusts. Accordingly, the Opposition requested that, in the interest of transparency, information about the types and volumes of such land holdings and the financial impacts that this bill will have on the budget, be provided. The Government, in reply, noted that measures will be taken to answer this request.

The Christian Democratic Party noted that many of the reforms in the bill were of a house keeping nature, and commended the bill to the House. The Greens did not oppose the bill, however requested that the Government clarify how existing leases will be affected by the Bill, and asked whether transitional arrangements are in place. In reply, the Government confirmed existing leases will not be affected until they are renewed and that this will only apply after 1 January 2018.

The second read of the bill was agreed to on the voices, the bill was read a third time and returned to the Legislative Assembly without amendment.

[Transport Administration Amendment \(Transport Entities\) Bill 2017](#)

House of origin: Legislative Assembly

The bill amends the Transport Administration Act 1988 to convert NSW Trains and Sydney Trains, (which are current subsidiaries of Rail Corporation of New South Wales (RailCorp)), and a new Residual Transport Corporation of New South Wales (RTC) to become stand alone statutory entities. The bill also proposes to convert RailCorp into a new state owned corporation named Transport Asset Holding Entity (TAHE) which will manage rail tracks, trains, stations and land and be responsible for the full range of financial management of those assets.

During the second reading debate, the Parliamentary Secretary stated that the new arrangements will reflect both modern governance and financial practices by supporting the consolidation of transport asset ownership and development of TAHE.

The Opposition opposed the bill, making three main claims. Firstly, that the bill removes billions of dollars from the budget bottom line using ‘an accounting trick’ to falsify the budget and make it look better than it really is over the forward estimates. Secondly, that under the model proposed by the bill the safety of train services in the State will be at risk, placing at risk the train-travelling public and winding back previous reforms directed at promoting public safety with respect to rail transport. Finally, the Opposition argued that the legislation will allow for the privatisation of rail assets by a ministerial directive without further deliberation or decision by the Parliament.

The Greens also opposed the bill, noting that the bill is about separating out the profitable and non-profitable parts of public transport, and that over time, the private sector will be given the profitable sections and taxpayers will be left with the liabilities, the contaminated land and other so called non-commercial assets.

The Christian Democratic Party supported the bill noting that the legislation would ensure that the newly established TAHE will be able to finance, manage and operate transport assets, and provide access to or lease those assets to transport operators. In his reply the Parliamentary Secretary stated that the establishment of TAHE will also allow transport operating entities to focus on their core functions of operating transport services, and deliver improved customer service whilst meeting capital and recurrent targets.

The second reading was agreed to by division (Ayes: 20 / Noes: 15), the bill was read a third time and returned to the Legislative Assembly.

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

[Public Health Amendment \(Registered Nurses in Nursing Homes\) Bill 2016](#)

Debate resumed from 12 May 2016 (see earlier [House in Review](#) for details).

The Government noted that it supports maintaining and promoting appropriate levels of nursing care in aged care facilities, but could not support the bill. The Government observed that in 2005 the regulation of aged care changed when the Commonwealth Government took over the role of both funding and regulating aged care facilities. As regulator, the Commonwealth Government is responsible for the oversight and inspection of facilities, managing and investigating complaints, and enforcing standards. States and Territories no longer have a regulatory role.

In recognition of these 2005 changes to the regulatory regime, the NSW Nursing Homes Act was repealed. The requirement for nursing attendance was also changed at that time, so that from 2005, the requirement to have a registered nurse present in an aged care facility was limited to those designated as "high care". Low-care facilities were not required to have 24 hour seven day a week coverage. The Government argued that the changes in the bill go beyond the 2005 position and apply the requirement to all facilities, and by so doing seek to change the rules that have been in place for 12 years. The Government identified the potential impact of such a change on current aged care services, particularly those in small facilities in rural and remote areas of the State.

The Opposition supported the bill, and noted that registered nurses administer drugs and carry out medical procedures in an aged care facility that would otherwise have to take place in a hospital setting or in an emergency department. Hence registered nurses provide a valuable service in reducing unnecessary admissions to emergency departments, which it argued are already at breaking point. The Opposition argued that aged care facilities without registered nurses send elderly patients to emergency departments because they do not have access to a general practitioner or a registered nurse, and that at any given time at least 550 elderly patients are in New South Wales hospital beds when they would be better suited to care in an aged care facility.

The Opposition noted the recommendation of the 2015 GPSC No. 3 report 'Registered nurses in New South Wales nursing homes' that registered nurses should be present in aged care facilities at all times, and argued that the only group opposed to this was commercial aged care providers. The Opposition recognised that there are challenges for rural and regional areas to satisfy the requirement for a registered nurse, but that these challenges could be overcome.

The Greens supported the bill, and noted that elderly people in aged care facilities are vulnerable members of our community and this bill will restore the level of care that was afforded to them for almost 30 years until the law was changed in 2014. The Greens noted the strong support for the bill from the NSW Nurses and Midwives Association, and argued that the bill is a step in the right direction for a more compassionate and dignified approach to caring for the aged.

Debate was adjourned.

Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Bill 2017 (Mr Secord, Australian Labor Party)

The bill amends the *Public Health Act 2010* to prevent unvaccinated children being enrolled at childcare facilities if the only reason that they are unvaccinated is a parent's conscientious belief. For the purposes of the bill, a childcare centre is defined as a childcare day centre, a family or home day care environment or a preschool. The bill also makes it an offence, with a maximum penalty of \$5,500, for the principal of a child care facility to enrol a child at the facility if the principal has not been provided with a vaccination certificate or a medical contraindication certificate.

Mr Secord stated that the purpose of the bill is to protect those children with genuine medical contraindications certified by a medical practitioner by encouraging parents to vaccinate otherwise healthy children. Mr Secord argued that a parent's refusal to vaccinate their child is based on misinformation, poor advice or individual belief, rather than science or medicine; and that it was necessary to prevent specialist anti-vaccination childcare centres from being established in New South Wales. He pointed to recent reports that patients are presenting to New South Wales hospitals with vaccine preventable diseases in increasing numbers, arguing that the statistical linkage between low-vaccination rate areas of Australia and the incidence of vaccine preventable infections is well established.

According to standing order, at the conclusion of the mover's second reading speech debate was adjourned for 5 calendar days.

Alcoholic Beverages Advertising Prohibition Bill 2015 (Revd Mr Nile, Christian Democratic Party)

Debate resumed from 22 September 2016 (see previous [House in Review](#))

The Government opposed the bill, arguing that the proposed prohibition on alcohol advertising in public places was too wide ranging. The government noted that the regulation of alcohol advertising across various forms of national media is primarily a matter for the Commonwealth Government, and best dealt with at the national level.

The Government also raised concerns over the proposed declaration of local option areas (within which the purchase, sale or consumption of alcoholic beverages in a public place is an offence). It argued that the declaration of these areas would have a major impact on the operators of licensed venues, and that these areas could be established far too readily without broad community support. The Government observed that it has taken a targeted approach to reducing alcohol-related harm in the community through a series of reforms and initiatives since 2011. These include restrictions on liquor sales after 11.00 pm, escalating sanctions and penalties for liquor licence holders, as well as lockout laws and last drinks initiatives implemented by the Government in the central business district and Kings Cross precincts.

The second reading debate on the bill was interrupted.

Motions

Floods in northern New South Wales (Mr Franklin, The Nationals, Mr Secord, Australian Labor Party, Ms Walker, The Greens)

Mr Franklin, Mr Secord and Ms Walker each introduced a notice of motion of similar nature regarding the north coast floods. In a very unusual procedure, the House agreed to debate them concurrently.

The motions acknowledged that communities in northern New South Wales were devastated by flooding from 31 March 2017 to 2 April 2017 caused by Cyclone Debbie, and that these floods were the worst in some five decades. The motions offered condolences on behalf of the House to the families and friends of those who tragically lost their lives in the floods. The motions acknowledged the many people who have lost their homes, businesses, property and possessions, and praised the tremendous contributions of emergency services agencies, volunteers in organisations such as the State Emergency Service and other volunteers who have tirelessly assisted people in the region.

Speaking to his motion, Mr Franklin noted the atmospheric conditions that led to up to 900 millimetres of rain falling in areas of northern New South Wales. Due to this, major flooding was experienced across three river basins, including the Tweed River, the Richmond and Wilson rivers, as well as the Brunswick River. Mr Franklin noted that over the period of the floods, the NSW State Emergency Service [SES] issued four evacuation warnings, 11 evacuation orders and 21 emergency alerts at various stages throughout the event, at one point impacting more than 25,000 residents. Mr Franklin applauded the more than 500 SES volunteers who are assisting in the clean-up efforts, with an additional 500 personnel from other agencies, and outlined the efforts of government agencies such as Family and Community Services to assist those in need.

In speaking to his motion, Mr Secord noted that with six confirmed deaths, members' thoughts and prayers must first be with those who have lost loved ones in the floods. Mr Secord noted that while Australians recognise bushfires as a clear danger, flooding is often underestimated at their peril. Mr Secord observed that the flooding was an unprecedented natural disaster. Mr Secord welcomed the natural disaster declarations and the decision to appoint a disaster recovery coordinator, and congratulated the north coast community in pulling together to help those in need.

Ms Walker spoke to her motion, noting the thousands of people who were evacuated and the impact of the floods on the whole north coast community. Ms Walker noted that residents are heartbroken, exhausted and emotional, and observed that as the flood waters receded, incredible stories of survival have come to the fore, but that some were not so lucky, with tragic loss of life. Ms Walker called on the Government to make urgent representations to the Commonwealth Government to allow the people of Ballina and Byron Shires to access Disaster Recovery Payments and the Disaster Recovery Allowance.

Members of the Government, Opposition, and the Greens spoke in support of the motions, with speakers describing the devastating impact of the floods on the northern rivers community, recounting the brave efforts of volunteers and emergency services personnel, and the amazing response of the community to assist those in need.

The motions were agreed to unanimously.

Motions taken as formal business

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

- (1) Hunter Research Foundation Centre (Mr MacDonald).
- (2) Point Clare Public School (Mr MacDonald).
- (3) Ballina TAFE Awards of Excellence (Mr Franklin).
- (4) Dolphin Swim Australia (Mr Pearson).
- (5) Leukaemia Foundation World's Greatest Shave (Mr Clarke).
- (6) Australia-Korean Commemorative Garden and Culture Centre (Mr Farlow).
- (7) Coal Seam Gas exploration in the Shoalhaven (Mr Field).
- (8) Australia Energy Market Rules (Mr Buckingham).
- (9) 40th Annual Highland Gathering at Bundanoon is Brigadoon (Mrs Maclaren-Jones).

Petitions received

Irregular petition

Coal seam gas exploration in Shoalhaven – 4,174 signatures (presented Mr Field).

Government response

- (1) Animal Free Circuses – Response from the Honourable Niall Blair MLC, Minister for Primary Industries, Minister for Regional Water and Minister for Trade and Industry, to a petition presented by Dr Faruqi on 22 February 2017, received out of session and authorised to be printed on 3 April 2017.

Committee activities

Committee references

Standing Committee on State Development: The Chair informed the House that on 5 April 2017, the committee resolved to inquire into regional development and a global Sydney.

Portfolio Committee No. 6 – Planning and Environment. The Chair informed the House that on 6 April 2017, the committee resolved to inquire into energy from waste technology.

Committee membership

Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission: The Hon Lou Amato MLC replaced the Hon Scot Farlow MLC.

Committee reports tabled

Legislation Review Committee: ‘Legislation Review Digest No. 34/56’, dated 4 April 2017.

Committee reports debated

Committee on Children and Young People: The House concluded the take note debate on Report No. 2/56 entitled ‘Sexualisation of children and young people’, dated November 2016.

General Purpose Standing Committee No. 1:

The House concluded the take note debate on Report No. 44 entitled ‘Budget Estimates 2016-2017’, dated November 2016.

General Purpose Standing Committee No. 5:

The House concluded the take note debate on Report No. 44 entitled ‘Budget Estimates 2016-2017’, dated November 2016.

General Purpose Standing Committee No. 6:

The House concluded the take note debate on Report No. 5 entitled ‘Budget Estimates 2016-2017’, dated November 2016.

Select Committee on the Legislative Council Committee System: The House continued the take note debate on the report entitled ‘The Legislative Council Committee System’, dated November 2016.

Inquiry activities

Select Committee on Off-Protocol Chemotherapy in New South Wales

The committee has received 114 submissions and conducted seven hearings. The committee will report by 19 May 2017.

Select Committee on Human Trafficking

The committee has received 28 submissions and has held two hearings in March. Further hearings are anticipated to take place in late May. The committee is due to report in September 2017.

Standing Committee on Law and Justice

First review of the Dust Diseases and Lifetime Care and Support schemes

The committee commenced its first review of the Dust Diseases and Lifetime Care and Support schemes on 13 March 2017. The closing date for submissions is 23 April 2017, and the committee will conduct a hearing on 2 June 2017.

Portfolio Committee No. 2 – Health and Community Services

Inquiry into road tolling

Submissions to the inquiry have now closed. The committee will hold two public hearings on 11 and 12 April 2017.

Portfolio Committee No. 3 – Education

Inquiry into students with disability or special needs in New South Wales schools

The committee has received 260 submissions to date and has held two public hearings. Additional hearings will take place in May and June 2017.

Portfolio Committee No. 4 – Legal Affairs

Inquiry into museums and galleries

The committee has received 173 submissions and held six public hearings to date. The committee has extended its reporting date to 15 June 2017.

Portfolio Committee No. 5 – Industry and Transport

Inquiry into water augmentation for rural and regional New South Wales

The committee has received over 100 submissions. The committee will be holding hearings in Moree, Tamworth and Orange from 15 to 17 May, with further Sydney hearings in June 2017.

Adjournment debate

Tuesday 4 April 2017

North Coast Flood Disaster (Ms Cusack); Political Donations (Mr Primrose); Wild Law (Mr Pearson); Racial Discrimination Act (Mr Wong); Clean Air (Dr Faruqi); Flood Damage Assistance (Mr Franklin).

Wednesday 5 April 2017

Euthanasia (Mr Donnelly); TAFE NSW (Ms Walker); Political Correctness (Mr Khan); Wagga Wagga Schools (Mr Mookhey); Disability Services (Mr Brown); Women Entrepreneurs (Mrs Maclaren-Jones); Fair Trade (Dr Phelps).

Thursday 6 April 2017

Pest Animal Management (Mr Brown); International Parliamentary Conference on Cybersecurity (Mr Pearce); Riverlands Golf Course (Ms Voltz); Sydney Marine Park (Mr Field); Blue Mountains Rail Line (Mr Mallard); Mangrove Mountain Landfill (Ms Sharpe).

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.

A handwritten signature in black ink, appearing to read 'DB', with a large, sweeping flourish at the bottom.

David Blunt
Clerk of the Parliaments