



# PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION  
NO. 4/2021: 8 – 24 JUNE 2021

June 2021				
M	T	W	T	F
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25

*This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant Standing Orders are noted.*

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## SITTINGS

The June sitting weeks are a significant period in the NSW Parliament's annual sitting calendar, as they are generally the weeks in which the Budget Bills are presented by the Treasurer. The Budget Bills are critically important pieces of legislation which appropriate the money required for government expenditure in the coming financial year.

As recorded in last year's [Digests](#), in 2020 the COVID-19 pandemic caused significant interruptions to the sittings of the House and to the conduct of its business. Once again in 2021, in the second of the June sitting weeks, the COVID-19 pandemic caused considerable disruption and threatened to derail the delivery of the NSW Budget.

The Treasurer, the Hon. Dominic Perrottet MP, introduced the Budget and delivered the Budget speech on Tuesday 22 June. The House had resolved that on Thursday 24 June the Leader of the Opposition, Mr Chris Minns MP, would give his speech in reply and it was anticipated that the Budget Bills would then be sent to the Legislative Council for concurrence. However, on the morning of Thursday 24 June it was announced that a Minister had tested positive to COVID-19. The Minister had been in Parliament House on Tuesday 22 June after being exposed to someone infected with COVID-19 on Monday 21 June.

The start of Thursday's sitting was delayed while Members and parliamentary staff were tested for COVID-19. The Assembly, which had responded to the need for continuity of parliamentary processes in the face of COVID-19 in 2020, once again made special arrangements for the operation of the Chamber and for the consideration of the Budget Bills and other business before the House. The special arrangements were facilitated by a suspension of Standing and Sessional Orders.

The House eventually met at 4.00pm on Thursday 24 June, pursuant to Sessional Order 47A, which provides that the Speaker may postpone meeting times and notify all Members by email of the date and the time that the House will meet. Further detail on the passage of the Budget Bills and other procedural events from the June sittings follow in the paragraphs below.

## BILLS

### **2021-22 Budget Bills**

The 2021-22 Budget Bills were considered by the House in the sitting week of 22 – 24 June.

The normal Routine of Business was altered by a suspension of Standing and Sessional Orders on 10 June to facilitate the Treasurer's Budget speech on 22 June and the speech in reply from the Leader of the Opposition on 24 June. The House agreed on 22 June to authorise the live streaming of the Treasurer's second reading speech on the Budget Bills and the Opposition Leader's speech in reply on Facebook.

On 22 June at 12.00 noon the Treasurer introduced the Appropriation Bill 2021, together with the cognate Appropriation (Parliament) Bill 2021, Electric Vehicles (Revenue Arrangements) Bill 2021, Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 and NSW Generations Funds Amendment Bill 2021.

The Treasurer moved that the bills be read a second time and gave his second reading speech (the Budget speech). At the conclusion of the speech, debate on the bills was adjourned until Thursday 24 June, and then the Treasurer tabled the Budget Papers for 2021-22.

By Thursday 24 June a Member of the Legislative Assembly (a Minister) had tested positive to COVID-19 and arrangements for the passage of the Budget Bills needed to be altered to accommodate a possible COVID-19 exposure at Parliament House.

The House met at 4.00pm (starting time postponed from 9.30am under SO 47A) on Thursday 24 June and agreed to a motion of the Leader of the House, the Hon. Mark Speakman MP, that the remainder of the sitting would be largely devoted to the passage through all the remaining stages of two of the five Budget Bills, the Appropriation Bill 2021 and the Appropriation (Parliament) Bill 2021. The House also agreed that the Leader of the Opposition's speech in reply would be postponed until Thursday 5 August 2021.

The Leader of the House moved that Standing and Sessional Orders be suspended so that two of the five cognate Budget Bills could be separated (the Appropriation Bill 2021 and Appropriation (Parliament) Bill 2021) and be able to be presented to the Governor for assent. The motion was agreed to on the voices.

The second and third readings of the Appropriation Bill 2021 and Appropriation (Parliament) Bill 2021 were agreed to on the voices, and the Bills were forwarded to the Legislative Council for concurrence. The Treasurer then moved that the House take note of the Budget Estimates and related papers for 2021-22. In accordance with the earlier resolution of the House, the take note debate was adjourned until a later date.

Later that day the Speaker, after resuming the Chair on the ringing of a long bell, reported a message from the Legislative Council returning the Appropriation Bill 2021 and the Appropriation (Parliament) Bill 2021 without amendment.

The Appropriation Bill 2021 and Appropriation (Parliament) Bill 2021 were assented to on Monday 28 June 2021. The remaining three bills formerly part of the Budget Bill package are still before the Assembly for consideration.

Further information on the 2021-22 Budget Bills can be found on Parliament's [website](#).

*Votes and Proceedings: 10/6/2021, pp. 1234-5; 22/6/2021, pp. 1243-4; 24/6/2021, pp. 1259-61.*

Standing Orders 47A (meeting times), 96 (leave), 97 (routine of business), 188 (bills), 193, 197 (cognate bills), 203 (proceedings after second reading), 243 (financial procedures), 264 (tabled papers), 365 (suspension of standing orders) and 368 (filming and broadcast of proceedings).

***Procedural note:***

Cognate bills are bills which are related to each other and presented as a package, to be considered together. The Standing Orders provide that cognate bills can be considered individually at any stage, however, they shall not be presented to the Governor for assent until all bills have been passed or otherwise disposed of.

The motion of the Leader of the House on Thursday 24 June to suspend Standing and Sessional Orders allowed for two of the five cognate Budget Bills to be presented to the Governor for assent, prior to the Parliament concluding its consideration of the remaining three Budget Bills.

***Amendments to the Better Regulation Legislation Amendment (Miscellaneous) Bill***

On Wednesday 9 June, during the second reading debate on the Better Regulation Legislation Amendment (Miscellaneous) Bill, the Hon. Kevin Anderson MP, Minister for Innovation and Better Regulation, took a point of order that several amendments which had been circulated by the Shadow Minister, Ms Julia Finn MP, were out of order. Mr Anderson said that Ms Finn's amendments did not have direct relevance to the subject matter of the proposed amendments being made by the bill.

Following debate on the point of order, the Temporary Speaker ruled that Ms Finn's proposed amendments were out of order, and the second reading debate continued.

Later that day, Mr Michael Daley MP foreshadowed in the House before Question Time that he intended to give notice of a motion of dissent against the Temporary Speaker's ruling on the amendments being out of order.

Following Mr Daley's statement, the Speaker ruled that the amendments should not have been ruled out of order at that stage as the amendments had not been moved and thus were not in possession of the House. Mr Speaker said:

I clarify that under Standing Order 64, which provides for pre-audience by a member in charge of the order of the day—in this context, the Minister with the carriage of the bill—preaudience does not override the right of a member to move amendments during consideration in detail of a bill.

Until such time as the amendments are moved and the question is put from the Chair, the amendments are not in the possession of the House and therefore should not be ruled out of order at that point. Whether or not amendments that have been proposed and previously circulated are in order remains a matter to be determined by the presiding officer, but only after they have been moved. It is my understanding that perhaps the amendments were being debated by the Opposition, which also was not appropriate. It would be confusing for a presiding officer if Opposition members were debating amendments that they had not moved. I hope I have clarified that situation and that the member is satisfied. No precedent has been set for the future.

The dissent motion was not pursued following the Speaker's ruling.

Later that day, the House entered Consideration in Detail of the bill, and Ms Finn moved the Opposition's amendments. When the first amendment was moved, a point of order was taken by the Minister that the amendment was not relevant to the bill. The Speaker left the Chair for a short period

on a long bell while considering the amendment, then returned to the Chamber and ruled that the amendment was in order. The amendment was negated on division.

A later amendment by Ms Finn was ruled out of order by the Speaker following a point of order from the Minister, and the Speaker referenced Standing Order 210 in regards to the need for amendments to be within the long title of the bill or relevant to the subject matter of the bill and otherwise in conformity with the standing orders and practice. The last amendment from Ms Finn also led to a point of order from the Minister, who stated that the amendment fell outside the scope of the bill as it amended a regulation.

Following debate on the point of order, the Speaker ruled that the amendment could proceed, saying 'it could be argued otherwise, but I am going to err on the side of allowing the amendment and the debate'. For detail of the Speaker's rulings, please see [Hansard](#). The amendment was negated on division, and the bill passed the House without amendment.

*Votes and Proceedings: 9/6/2021, p. 1214-1226*

Standing Orders 35 (long bell), 64 (member to speak once, with exceptions), and 210 (amendments to be relevant).

## CHAMBER

### ***Social distancing***

On Tuesday 8 June, following a motion from the Leader of the House, the Hon. Mark Speakman MP, the House agreed to a seating plan to allow all 93 Members to sit in the Chamber and galleries during Question Time. This seating pattern had also been introduced in May, however, with the reporting of a number of locally acquired COVID-19 infections in May, all 93 Members were only able to be seated in Question Time for two sitting days.

On Wednesday 23 June, the Speaker informed the House that a number of Members had been tested for COVID-19, having recently been to known exposure sites. The Speaker further suggested that Members may consider wearing masks in the Chamber, and advised that during Question Time the Assembly would return to the reduced Chamber seating plan. The Leader of the House subsequently moved that the House make provision for a maximum of 20 Members in addition to the Speaker to sit on the floor of the House in designated positions.

On Thursday 24 June, following the return of a positive COVID-19 test for one of the Members of the Assembly, only a handful of Members took their seats in the Chamber.

*Votes and Proceedings: 8/6/2021, p. 1197; 23/6/2021, p. 1251 and p. 1254.*

## SPEAKER

### ***Temporary Speaker***

On Tuesday 22 June the Speaker informed the House that Mrs Wendy Tuckerman MP had been appointed as a Temporary Speaker in place of Ms Felicity Wilson MP.

*Votes and Proceedings: 22/6/2021, p. 1245.*

Standing Order 20 (temporary speakers).

**Procedural note:**

Standing Order 19 provides that the Speaker may nominate up to five Members as Temporary Speakers who, in the absence of the Deputy Speaker and Assistant Speaker, may exercise the powers and duties of the Speaker while in the Chair. Temporary Speakers are rostered on to work at various times when the House sits, but must vacate the Chair when requested to do so by the Speaker.

## BUSINESS

### ***Temporary change to the Order of Business***

On Tuesday 8 June the Leader of the House moved that Standing and Sessional Orders be suspended for the next two sitting weeks to provide that Community Recognition Statements be given before Private Members' Statements. The question was agreed to on the voices.

*Votes and Proceedings: 8/6/2021, p. 1197.*

Standing Order 97 (routine of business).

**Procedural note:**

Standing Order 97 (as amended by sessional order) sets out the order of business that the House considers each sitting day. Under current sessional orders, Community Recognition Statements are the last item of business of each day.

### ***Suspension of Standing and Sessional orders – Petition debate rescheduling***

On Wednesday 23 June, Ms Jenny Leong MP moved, by leave, a suspension of Standing and Sessional Orders that would move the debate of the ePetition with more than 20,000 signatures concerning holistic consent sex education from Thursday 24 June, when it had originally been scheduled, to Thursday 12 August 2021. The suspension was agreed to by the House.

*Votes and Proceedings: 23/6/2021, p. 1255.*

Standing Order 365 (suspension of standing orders) and 125A (petitions with over 10,000 signatures).

**Procedural note:**

Members require the leave of the House to move a suspension of standing orders, while Ministers can move suspensions without leave. Suspension motions by Members who are not Ministers are infrequent.

Debates on 10,000 signature petitions are set down for sitting week Thursday afternoons in the order in which they are received, and are often viewed by many interested members of the public (usually in person in the public galleries, as well as online).

As the COVID-19 situation in Sydney appeared to be worsening on Wednesday 23 June, the House agreed to suspend standing orders to move the petition debate to a later Thursday.

### ***Private Members' Statements - Speaker's comments regarding the sub judice convention***

On Wednesday 23 June, during the giving of Private Members' Statements, the Member for Murray spoke about a matter involving the arrest of, and charges against, an individual.

During the Member's speech, the Speaker stopped the clock, and made several comments in relation to the sub judice convention, stating:

The sub judge convention requires members to refrain from making reference in debate, motions and questions to matters before the courts where this would prejudice court proceedings. However, this danger of prejudice needs to be considered against the public interest and freedom of debate in the House, which may outweigh potential prejudice. I note that the sub judge convention is more strictly applied in relation to criminal matters, particularly those that have proceeded to a charge and may come before a jury...

*Hansard (proof): 23/6/2021, p. 91*

### ***Prevention of domestic violence programs - motion and amendments***

On Thursday 10 June, Ms Trish Doyle MP moved the following general business motion regarding prevention of domestic violence programs:

That this House:

- (1) Acknowledges the thousands of women who rallied on the streets of Sydney, other cities and towns across New South Wales on 15 March 2021 demanding justice for victims of gendered violence.
- (2) Notes women have had enough of inequality, discrimination, harassment and violence, and will continue to speak up and demand change.
- (3) Demands the Premier and Minister for Mental Health, Regional Youth and Women take action to ensure policy and legislation change on consent education to protect women, enshrine equality, and adequately fund frontline sexual assault services and gendered violence prevention programs.

During debate on the motion, Ms Felicity Wilson MP moved an amendment to the motion to remove (3) and insert the following instead:

- (3) Commends the Government on taking action to ensure policy and legislation change on consent education to protect women, enshrine equality, and adequately fund frontline sexual assault services and gendered violence prevention programs.

Debate continued, and Ms Lynda Voltz MP moved the following amendment to Ms Wilson's amendment:

Leave out 'Commends the Government on taking action' and inserting instead 'Urges the Premier to take more'.

With the first question before the House being Ms Voltz' amendment to Ms Wilson's amendment to the motion, the House divided. The result of the division was 44 ayes, and 44 noes. With the votes being equal, the Temporary Speaker voted with the noes, and the amendment of Ms Voltz was negatived.

The next question before the House was Ms Wilson's amendment. The House divided, and the result of the division was 44 ayes, 44 noes. With the votes being equal, the Temporary Speaker voted with the ayes, and the amendment of Ms Wilson was agreed to.

The remaining question before the House was that the motion of Ms Doyle, as amended by Ms Wilson, be agreed to. The House divided, and the result of the division was ayes 45, noes 43. The amended motion passed the House.

*Votes and Proceedings: 10/6/2021, pp. 1230-1233.*

Standing Orders 157-166 (amendments) and 184 (casting vote)

**Procedural note:**

Chapter 13 of the Standing Orders (157-166) provides procedures for amendments to questions before the House.

It is the practice of the House that an amendment to an amendment is allowable, but that no motion to amend further can be entertained until one of the two amendments is disposed of. When an amendment is moved to an amendment that has not been voted on by the House, it is the second amendment (that of Ms Voltz in this case) which is put to the vote first.

If the amendment to the amendment is negated, the House then proceeds to vote on the original amendment (that of Ms Wilson in this case) as it was moved. The House then deals with the original motion if the amendment was disagreed to, or the amended motion if the amendment was agreed to.

For more information, see Chapter 17, [NSW Legislative Assembly Practice, Procedure and Privilege](#).

## MEMBERS

### ***A new Member of the Legislative Assembly***

On Tuesday 8 June a new Member of the Legislative Assembly, Mr Dave Layzell MP (Member for the Upper Hunter) took his place after winning a by-election held on 22 May 2021 (see [Digest no 3](#) for information on this by-election.)

Mr Layzell was introduced, took the pledge of loyalty, signed the Roll of the House and took his seat as a Member for the electoral district of Upper Hunter. Later that day Mr Layzell was also appointed to serve on the Legislation Review Committee.

On the following day, Wednesday 9 June, Mr Layzell gave his inaugural speech.

*Votes and Proceedings: 8/6/2021, pp. 1200, 1205, 9/6/2021, p. 1215.*

Standing Orders 23, 24 (swearing in of Members, roll of the House) and 63 (inaugural speech).

**Procedural note:**

A Member's inaugural speech is the first speech they give in the Legislative Assembly.

Standing Order 63 provides for the House to agree for business to be interrupted at a specified time so that a new Member may give their inaugural speech. Members may speak for up to 20 minutes and it is the custom that other Members refrain from making interjections during the giving of an inaugural speech.

Prior to giving an inaugural speech Members are not prevented from participating in parliamentary business, for example, voting, making Private Members' Statements and asking questions.

### ***New Leader and Deputy Leader of the Opposition***

On Tuesday 8 June Mr Chris Minns MP informed the House of the resignation on 28 May 2021 of Ms Jodi McKay MP and Ms Yasmin Catley MP as Leader and Deputy Leader of the Opposition. Mr Minns further advised of the election, on 4 June 2021, of himself as Leader and Ms Prue Car as Deputy Leader of the Opposition.

*Votes and Proceedings: 8/6/2021, p. 1201.*

## STAFF

### ***Appointment of Deputy Clerk and Acting Clerk-Assistant***

On Tuesday 8 June the Speaker advised the House of the appointment, on 31 May 2021, of Ms Carly Maxwell as Deputy Clerk and Mr Simon Johnston as Acting Clerk-Assistant, House and Procedure.

*Votes and Proceedings: 8/6/2021, p. 1201.*