

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/19

*Sitting period
21 to 23 February 2012*

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 second sitting week of the year was notable for the volume of Government bills considered by the House this early in the sitting period. In total, the House debated seven Government bills (although not all were completed), with a further four bills introduced and read a first time (but not progressed further).

It is also interesting to note the recent surge in bills originating in the Council. Since the commencement of the 55th Parliament in May 2011, 74 bills have been assented to, with 15 originating in the Council. This is broadly consistent with past practice. However in the last sitting weeks of 2011 and the first two sitting weeks of 2012, the volume of bills originating in the Council has increased considerably, with five Council bills being either introduced or debated this sitting week. Notice of two further Council bills dealing with industrial relations reform was also given on Thursday afternoon before the House rose. It will be interesting to see whether this spike in Council bills continues.

Finally, the Parliament is not sitting next week. But looking ahead to sittings in March, notice was also given of a number of bills in the Lower House this week, including the Electricity Generator Assets (Authorised Transactions) Bill which provides for the transfer of the electricity generator assets of the State and the Public Sector Employment and Management Amendment Bill dealing with excess employees and performance management. Intense and lengthy debate can be expected when these bills reach the Legislative Council.

Address to Her Majesty the Queen on the occasion of Her Diamond Jubilee

As reported in the previous edition, on the first sitting day of the year the House adopted and Address to Her Majesty the Queen on the occasion of her Diamond Jubilee, offering 'loyal and heartfelt congratulations on the completion of the sixtieth year of Her beneficent reign'.

On 23 February 2012 the President of the Legislative Council, accompanied by the Usher of the Black Rod, called on Her Excellency the Governor to present the Address. Her Excellency the Governor will forward the Address to Her Majesty Queen Elizabeth the Second.

Government business

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

Firearms Amendment (Ammunition Control) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Firearms Act 1996* to prevent the sale of ammunition by a licensed firearm dealer to a shooter unless the shooter is the registered owner of, or has a permit to acquire, a firearm that takes that ammunition; and by requiring firearms dealers to maintain records of purchases and sales of ammunition.

Proceedings: Debate on the second reading of the bill resumed on 22 February 2012 from 16 February 2012 (see the previous edition of *House in Review* for earlier debate).

The Opposition supported the bill, noting that the bill has been introduced in response to recent drive-by shootings and gun crime in Western Sydney. However, the Opposition expressed concern about the effectiveness of the proposed new laws, their impact on sporting shooters and the added burden of regulation that the bill imposes. The Opposition argued that the Government should instead be putting additional police resources into Western Sydney to combat drive-by shootings.

The Greens also supported the bill as a positive step towards reducing firearm related crime. In support, the Greens cited the downward trend in firearm offences since the implementation of national gun reforms in 1996, while praising the bill for reversing the watering-down of gun laws in recent years.

The Shooters and Fishers Party strongly opposed the bill, arguing that it will have no impact on drive-by shootings, while adding to the red tape faced by firearms dealers and making it much harder for licensed gun owners to obtain ammunition for legitimate purposes.

Debate was adjourned until the next sitting day.

Marine Pollution Bill 2011

The bill originated in the Legislative Council.

Summary: The object of the bill is to protect the State's marine and coastal environment from pollution by oil and other marine pollutants discharged from ships. The bill repeals and re-enacts the Marine Pollution Act to implement the provisions of the *International Convention for the Prevention of Pollution from Ships, 1973* (known as MARPOL).

Proceedings: Debate on the second reading of the bill resumed on 21 February 2012 from 14 February 2012 (see the previous edition of *House in Review* for earlier debate).

The Opposition did not oppose the bill, noting that the current Marine Pollution Act was introduced by the previous Labor Government, and arguing that Labor has always supported protection of the marine environment. The Greens, Christian Democratic Party and Shooters and Fishers Party also supported the bill, noting that it implements international obligations. The second reading was agreed to.

In the committee stage, the Opposition moved an amendment to establish an Oiled Wildlife Care Network to prepare a major spill contingency plan. A Government amendment to the amendment, to restrict the role of the network to an advisory capacity, was agreed to by the Opposition. The amendment, as amended, was subsequently agreed to.

The Greens moved an amendment to require the master of a fishing vessel to make all reasonable efforts to retrieve any lost fishing nets or other fishing gear, and to create an offence where a master fails to report and retrieve lost fishing gear. The Government opposed the amendment on the basis that the garbage requirements of the bill already apply to lost fishing gear. The amendment was negated.

The Greens also moved amendments to enable any person to bring proceedings for a breach of the Act to the Land and Environment Court, and to enable the Court to make orders under the Act. The Government opposed the amendments, arguing that the bill contains extensive provisions for actions to be taken by the Minister. The amendments were negated.

The bill was reported to the House with the amendment, and, on the following day, read a third time and forwarded to the Assembly for concurrence.

Road Transport Legislation Amendment (Offender Nomination) Bill 2012

The bill originated in the Legislative Council.

Summary: When a camera records a traffic offence the offender is taken to be the registered operator of the vehicle unless the operator formally nominates the driver who committed the offence. It is an offence to falsely nominate a driver or, in the case of a company, not to nominate.

This bill amends the *Road Transport (General) Act 2005* to make further provision with respect to the nomination of offenders for certain traffic and parking offences and to

make consequential and other minor amendments to the *Fines Act 1996* and the road transport legislation. Amongst other things, the bill increases the fines for companies that fail to nominate a driver who commits an offence; reduces from 21 to 7 days the period of presumed service for penalty notices delivered by mail; requires a registered owner to provide additional information, when needed, to establish the identity of the responsible driver; and provides that only one statutory declaration is required relating to multiple offences detected by the one camera image.

Proceedings: Leave was granted to bring in the bill on 22 February 2012. The bill was presented, read a first time and printed.

In his second reading speech, the Minister (Mr Gay) indicated that the bill is in part a response to the problem of some corporations being willing to incur fines and shield their drivers by refusing to nominate drivers who commit offences, notwithstanding previous measures to address this issue. The bill increases five-fold both the penalty notice and court fine amounts for corporations that fail to nominate a responsible driver. The Minister argued the bill will result in increased efficiency in the management of the penalty notice system and stressed that the increased penalties will not apply to any individuals or corporations that do the right thing and nominate correctly. The Minister also advised that the bill corrects some minor oversights within road transport legislation with respect to the definition and application of the terms 'aggravated burn-out' and 'novice driver'. Debate was adjourned for five calendar days.

Criminal Case Conferencing Trial Repeal Bill 2011

The bill originated in the Legislative Council.

Summary: The *Criminal Case Conferencing Trial Act 2008* established a trial criminal case conferencing scheme which commenced in May 2008. The scheme encouraged early plea negotiations in certain criminal cases heard in certain courts, before committal for trial, by providing sentencing discounts for guilty pleas.

This bill repeals the 2008 Act, and thus formally discontinues the trial scheme, while preserving any entitlement or application made under the scheme before the repeal date.

Proceedings: Debate on the second reading of the bill resumed on 22 February 2012 from 16 February 2012 (see the previous edition of *House in Review* for earlier debate).

The Opposition did not oppose the bill, noting that the scheme has already been closed by the Attorney-General by regulation, and that the bill merely formalises this. However, the Opposition did express concern that the Government has failed to adequately explain and justify the cancellation. Similarly, the Greens did not oppose the bill, but questioned the rigour with which the scheme was analysed prior to its cancellation.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

Government Information (Public Access) Amendment Bill 2011

The bill originated in the Legislative Council.

Summary: In 2009, the former *Freedom of Information Act 1989* was replaced by the *Government Information (Public Access) Act 2009*.

This bill makes miscellaneous amendments to the *Government Information (Public Access) Act 2009* and certain other legislation. Amongst other things, the bill confirms that access to information is to be provided in a manner that has due regard to copyright issues and confirms that an agency may require proof of identity from an applicant in certain circumstances before providing access to government information.

Proceedings: Debate on the second reading of the bill resumed on 22 February 2012 from 16 February 2012 (see the previous edition of *House in Review* for earlier debate).

The Opposition did not oppose the bill, noting that it contains only minor and consequential amendments to the Act, which was enacted by the former Labor Government. The Christian Democratic Party supported the bill while noting the resource impact that requests for information were having on local councils. The Greens did not oppose the bill given its relatively modest scope and the fact that the Act is due for a full statutory review in 2014. However, the Greens took the opportunity to raise their concern at what they saw as an increasing incidence of copyright issues being cited, particularly by local councils, as reasons for not releasing information.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

Agricultural Tenancies Amendment Bill 2011

The bill originated in the Legislative Assembly.

Summary: The bill establishes a new process for resolving agricultural tenancy disputes. Such matters are currently dealt with by the Director General of the Department of Primary Industries under the *Agricultural Tenancies Act 1990*. However, with the transfer of the *Agricultural Tenancies Act 1990* to the Fair Trading portfolio, the bill transfers responsibility for resolving agricultural tenancy disputes to the Consumer, Trader and Tenancy Tribunal.

Proceedings: The bill was received from the Legislative Assembly on 23 November 2011 and read a first time. Debate on the second reading of the bill commenced on 22 February 2012.

In his second reading speech, the Parliamentary Secretary (Mr Clarke) argued that the Consumer, Trader and Tenancy Tribunal is better suited to the role of resolving agricultural tenancy disputes, given its extensive experience in other tenancy-related matters. As such, the bill will ensure that farm owners, share farmers and farm tenants have ongoing access to an affordable and accessible dispute resolution service.

The Opposition did not oppose the bill, noting that the NSW Farmers Association and Public Service Association have both endorsed the bill. The Greens and

Christian Democratic Party also supported the bill as a welcome practical change.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Real Property Amendment (Public Lands) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill enables Crown land that is reserved under the *National Parks and Wildlife Act 1974* or dedicated under the *Forestry Act 1916* to be brought under the *Real Property Act 1900*. This is part of a wider project to convert all old system and Crown title land (almost entirely land in National Parks and State Forests) to Torrens title. The Torrens title system is cheaper, fairer, and more accessible to the public.

Proceedings: Debate on the second reading of the bill resumed on 22 February 2012 from 16 February 2012 (see the previous edition of *House in Review* for earlier debate).

The Opposition supported the bill noting that it began the conversion process in 2007 when it was in office. The Greens supported the bill on the understanding that the transfer of Crown land to Torrens title would not ultimately lead to the privatisation of that land.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

Children (Detention Centres) Amendment (Serious Young Offenders Review Panel) Bill 2011

The bill originated in the Legislative Assembly.

Summary: The bill establishes the Serious Young Offenders Review Panel under the *Children (Detention Centres) Act 1987*. The panel will be comprised of between three and six members, appointed by the Minister for Justice. The role of the Panel is to provide advice and make recommendations with respect to serious young offenders and certain other detainees under the Act.

Proceedings: The bill was received from the Legislative Assembly on 22 February and read a first time. The second reading of the bill was set down as an order of the day for a later hour.

Criminal Procedure Amendment (Summary Proceedings Case Management) Bill 2011

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Criminal Procedure Act 1986* to make provision for case management procedures to reduce delays in trial and sentencing procedures before the Supreme Court and the Land and Environment Court. This is achieved by granting those courts the discretion to make orders requiring that certain disclosures be made by the prosecution and the defence before a trial or sentencing hearing. The bill also provides for pre-hearing mechanisms (such as preliminary hearings

and preliminary conferences) aimed at achieving a more efficient management and conduct of proceedings.

Proceedings: The bill was received from the Legislative Assembly on 21 February and read a first time. The second reading of the bill was set down as an order of the day for the next sitting day.

Education Amendment (Record of School Achievement) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Education Act 1990* to replace the School Certificate with a Record of School Achievement. The examinations or other assessments for the new credential will be conducted by individual schools, but will be moderated on a State-wide basis. The bill also provides for a more extensive record of student results and other activities during Years 10, 11 and 12.

Proceedings: The bill was received from the Legislative Assembly on 22 February 2012 and read a first time. The second reading was set down as an order of the day for a later hour.

Courts and Crimes Legislation Amendment Bill 2011

The bill originated in the Legislative Assembly.

Summary: The bill makes various miscellaneous amendments to courts and crimes-related legislation, as part of the Government's regular legislative review and monitoring program.

Proceedings: The bill was received from the Legislative Assembly on 22 February 2012 and read a first time. The second reading was set down as an order of the day for a later hour.

Private members' business

Note: Private members' business is business moved by members of the House other than Government ministers. There are two types of private members' business: private members' bills and private members' motions.

Bill

Save Gosford Public School Bill 2012 (Dr Kaye, The Greens)

The bill originated in the Legislative Council.

Summary: The bill seeks to prevent the relocation of Gosford Public School to the grounds of Henry Kendall High School and to ensure that parents, staff and the community are consulted before any alternative site is chosen for Gosford Public School. The bill would also prevent the possible sale of the Gosford Public School site.

Proceedings: Standing orders were suspended on 23 February 2012 to bring on the item of business. Leave was granted to bring in the bill. The bill was presented, read a first time and printed.

In his second reading speech, Dr Kaye indicated that he was introducing the bill in response to the concerns of parents and teachers that the proposed relocation of

Gosford High School to the grounds of Henry Kendall High School will see students transferred to very cramped conditions which will interfere with their education outcomes. Dr Kaye characterised the possible sale of the Gosford Public School site as a revenue raising initiative by the Government. Debate was adjourned for five calendar days.

Motions

Leaving care plans (Ms Barham, The Greens)

Summary: The motion, as amended by leave, called on the Government to fulfil its legislative requirements under the *Children and Young Persons (Care and Protection) Act 1988* to provide all young people leaving out-of-home-care with a leaving care plan. Leaving care plans seek to ensure that young people have a more satisfactory transition to the adult world. They often include planning for work, education, housing and health.

Proceedings: Debate on the motion resumed on 23 February 2012 from 16 February 2012 (see the previous edition of *House in Review* for earlier debate).

On the resumption of debate, members continued to discuss the themes raised previously in the debate, including the vulnerability of young people leaving out-of-home care and the critical need for such young people to have access to appropriate support, including through improved Government services.

In her reply, Ms Barham thanked all members who spoke on the motion and expressed hope that the House's strong support for the motion will encourage the Government to renew its efforts to provide appropriate support to young people leaving out-of-home-care, including by ensuring that all such young people have leaving care plans. The motion was agreed to.

Betty Spears OAM (Ms Cotsis, Australian Labor Party)

Summary: The motion called on the House to extend its condolences to the family and friends of the late Betty Spears, who died earlier this month, aged 85. In doing so, the motion noted the extraordinary contribution of Betty Spears to the lives of working women and men in this State and her many achievements including her contribution to the first equal pay case in 1972 and her advocacy at the State and Federal levels for the establishment of the Betty Spears Child Care Centre at Tempe.

Proceedings: Standing orders were suspended to bring on the item of business. Members who spoke on the motion were unanimous in their praise of Betty Spears. Members described her as a trailblazing advocate of the rights of women. Tribute was also paid to her relentless campaigning on a vast range of issues for workers and their families. The House acknowledged the family and friends of Betty Spears who were present in the public gallery. The motion was agreed to.

70th anniversary of the bombing of Darwin (Mr Lynn, Liberal Party)

Summary: The motion called on the House to acknowledge the 70th anniversary of the bombing of Darwin by 188 Japanese aircraft on 19 February 1942 and to pay tribute to the citizens and servicemen and women who lost their lives.

Proceedings: Standing orders were suspended to bring on the item of business. Members who spoke to the motion noted that the bombing of Darwin remains the largest attack by a foreign power on Australian soil, and that more bombs were dropped and more ships sunk in the attack on Darwin than occurred in the more celebrated attack on Pearl Harbour. Members noted that the event, which for too long had not been commemorated, will now be properly acknowledged through the annual Bombing of Darwin Day. The motion was agreed to.

Motions taken as formal business

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

- (1) Teal Ribbon Day (Mr Blair)
- (2) Penrith Council Australia Day Awards (Ms Westwood)
- (3) Mr Joseph Khattar AM (Mr Ajaka)
- (4) International Asperger's Day (Revd Mr Nile)
- (5) National 'Purple Day' (Revd Mr Nile)
- (6) National Ovarian Cancer Awareness Month (Revd Mr Nile)
- (7) Life Education (Mrs Maclaren-Jones)
- (8) Professor John Rasko (Ms Ficarra)
- (9) Pillars of Strength (Mr Blair)
- (10) Cyprus delegation (Ms Ficarra)
- (11) Tour de Cure (Ms Ficarra)
- (12) Cure the Future Foundation (Ms Ficarra)
- (13) 'Overboard' book (Mr Moselmane)
- (14) Mr John Brandenburg (Mr Moselmane)
- (15) Mr Sam Almaliki (Mr Moselmane)
- (16) Orphans of the Japan earthquake (Mr Moselmane)
- (17) House of Welcome (Ms Fazio)
- (18) UNSW Law 40th anniversary (Mr Moselmane)
- (19) Rockdale Citizen of the Year (Mr Moselmane)
- (20) Chinese New Year (Mr Moselmane)
- (21) Rockdale Sportsperson of the Year (Mr Moselmane)
- (22) Serbian National Statehood Day (Mr Moselmane)
- (23) Youth leader Elizabeth Mora (Mr Moselmane)

- (24) Delegation from Cyprus (Mr Fazio)
- (25) Alameddin family (Mr Moselmane)
- (26) Mrs Hanifa Begum (Mr Moselmane)
- (27) Mr Raymond Harty OAM (Mr Primrose).

Petitions received

- (1) Implementation Steering Committee for Local Government – 9,086 signatures (irregular, presented Mr Borsak)
- (2) Special Religious Education Classes – 28 signatures (presented Miss Gardiner).

Committee activities

Committee reference

Privileges Committee: The House referred to the Committee an inquiry into the right of reply process.

Committee reports tabled

Select Committee on the Kooragang Island Orica

Chemical Leak: Report No. 1 entitled 'Kooragang Island Orica chemical leak', February 2012.

Privileges Committee:

- (1) Report No. 58 entitled 'Citizen's Right of Reply (Leda Holdings Pty Ltd)', February 2012.
- (2) Report No. 59 entitled 'Citizen's Right of Reply (Mrs Julie Passas)', February 2012.

Legislation Review Committee: 'Legislation Review Digest No. 10/55', 21 February 2012.

Committee reports debated

Joint Select Committee on the Parliamentary Budget

Office: The House commenced the take-note debate on Report No. 1/55 entitled 'Inquiry into the Parliamentary Budget Office', December 2011.

General Purpose Standing Committee No. 2: The House commenced the take-note debate on Report No. 37 entitled 'Budget Estimates 2011-2012', February 2012.

General Purpose Standing Committee No. 3: The House commenced the take-note debate on Report No. 25 entitled 'Budget Estimates 2011-2012', December 2011.

Standing Committee on Law and Justice: The House continued the take-note debate on Report No. 47 entitled, 'Fourth review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council', December 2011.

Standing Committee on Law and Justice: The House continued the take-note debate on Report No. 48 entitled, 'Eleventh review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council', December 2011.

Adjournment debate

Tuesday 21 February 2012

Pillars of Strength (Mr Blair); South Tralee rezoning (Mr Whan); Syrian Christians (Mr Green); Former Ashfield Councillor Julie Passas (Ms Fazio); Container deposit legislation (Ms Fachrmann); Murray-Darling Basin draft water plan (Mr Mason-Cox).

Wednesday 22 February 2012

Armenian genocide (Mr Secord); Independent Scientific Audit of Marine Parks (Mr Brown); Coal seam gas (Mr MacDonald); MRI EWaste Recyclers industrial action (Mr Primrose); Warkworth coal mine (Mr Buckingham); Medicare (Dr Phelps); Job losses (Ms Cotsis).

Thursday 23 February 2012

Environmental protesters (Mr Borsak); Organ donation (Mrs Maclaren-Jones); United States of America and Israeli drone usage (Ms Voltz); Regional employment (Mr Shoebridge); SHINE for Kids (Ms Westwood); Penrith Panthers Rugby League Club (Ms Ficarra); Religions for Peace meeting (Mr Secord).

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.



David Blunt
Clerk of the Parliaments