

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



*Volume 56/31*

*Sitting period  
15 to 17 November 2016*

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](http://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](mailto:council@parliament.nsw.gov.au).

### **Overview**

The final sitting week for 2016 saw the House consider just three bills, but engage in detailed debate that on Tuesday evening resulted in the House adjourning in the early hours of the morning. The focus of the House on Tuesday was the Biodiversity Conservation Bill and cognate, legislation that repeals the Native Vegetation Act 2003 and other related legislation to establish a new legislative framework for land management and conservation in NSW. In all, 91 amendments were moved to the two bills, resulting in a detailed process of review in committee of the whole, although ultimately only one amendment was agreed to. On Thursday, the President informed the House that the Greens had lodged a protest with His Excellency the Governor against the bill. The House also considered bills to reform the structure of the Independent Commission Against Corruption and make the wearing of life saving jackets mandatory for rock fishers.

On Thursday, the House agreed to permit government business to take precedence of general business (private members' business) in order to conclude the consideration of the 2016 legislative program, and farewelled Ms Jan Barham (The Greens), who has advised that she will retire prior to the commencement of the 2017 sitting period. Thursday also saw the House agree to the annual motion offering seasonal felicitations to members and staff. During debate members acknowledged that 2016 had been a mixed year which included the sad and unexpected passing of Dr John Kaye (The Greens), and the election of two new members (Mr Justin Field, following the passing of Dr Kaye, and the Honourable John Graham, following the resignation of the Honourable Sophie Cotsis of the Labor Party).

The House now stands adjourned until Tuesday 21 February 2017. The final edition of *House in Review* for 2016 will be issued next week, featuring a review of key events and statistical trends for the year.

### **Changes in leadership of The Nationals**

On Tuesday 15 November 2016, Mr Gay informed the House of the election that day of the Honourable John Barilaro MP as Leader of The Nationals and the Honourable Niall Blair MLC as Deputy Leader of The Nationals. Later that day, Mr Gay further informed the House that His Excellency the Governor had accepted the resignation of the Honourable Troy Grant MP as Deputy Premier, and had appointed Mr Barilaro as Deputy Premier.

## Valedictory speech of Ms Jan Barham

On Thursday 17 November 2016, Ms Jan Barham (The Greens) [gave her valedictory speech](#), having indicated to the House in October that she intends to resign her seat in the Legislative Council prior to the commencement of the 2017 sitting period.

## Procedure Committee reference – Rules for notices of motions

On Wednesday 16 November 2016, the House agreed to a reference to the Procedure Committee, initiated by the Leader of the Government, to consider variations to the rules for notices of motions. The options referred include word limits, limitations on the number of notices given by members each day and a requirement that the matters addressed in notices be within the competency of the House. The committee is expected to report in 2017.

## Government business

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

### [Biodiversity Conservation Bill 2016](#) and [Local Land Services Amendment Bill 2016](#) (cognates)

House of origin: Legislative Council

Debate resumed from 9 November 2016 (see [previous House in Review](#) for a summary of the minister's second reading speech explaining the purpose of the bill).

The Opposition opposed the bills, arguing that the *Native Vegetation Act 2003*, introduced by the Labor Government, had struck the right balance between land productivity and the protection of the environment, delivering a 20 per cent reduction in clearing of remnant bushland and saved 116,000 native animals from death, including 400 koalas. The Opposition argued that, in contrast, the new legislation, which they observed favours self-assessed code-based clearing and a weakened offset system, would result in significant increases in land clearing, the destruction of precious native vegetation and animal habitats, degraded soil quality, increased erosion, reduced water quality, damage to creek and river ecosystems, and increased carbon emissions. The Opposition indicated that it would move a series of amendments to put greater protections in place for native vegetation and animals.

The Greens also opposed the bills, stating that their effect would be nothing short of 'ecocide', resulting in a massive expansion of land clearing, the release of millions of tonnes of greenhouse gasses and an acceleration in the loss of already threatened species. An amendment moved by the Greens to the second reading to refer the bills to General Purpose Standing Committee No. 5 for inquiry and report was negatived on division (Ayes: 17 / Noes: 22). The Greens also advised that they would move a series of amendments in committee to attempt to improve the bill.

The Animal Justice Party (AJP) also opposed the bills, arguing that they would eviscerate environmental protections and allow unfettered destruction of habitat on marginal farmlands.

The Christian Democratic Party (CDP) supported the bills, stating that they seek to respond to the unjust burden many farmers have had placed on them under the current legislative framework. The CDP argued that the current legislation had failed to protect biodiversity and pitted farmers against environmentalists, whereas the new legislation would recognise farmers as the critical link in biodiversity management. The Shooters, Fishers and Farmers Party (SFFP) also supported the bills, however the SFFP called on the Government to commit to commencing a review into private native forestry arrangements previously promised, with extensive consultation, and to commit to placing the regulation of private native forestry under the purview of Local Land Services.

The second reading of the bills was agreed to on division (Ayes: 22 / Noes: 17).

During consideration in committee of the whole, the CDP successfully moved an amendment to the Biodiversity Conservation Bill to make clear that firefighters such as the Rural Fire Service are not subject to the offence provisions under the bill when carrying out emergency activities or hazard reduction. The Greens, Opposition and AJP also moved 39 amendments, many of which had similar aims, principal amongst which were amendments to vary the purpose of the Act; expand biodiversity values; make it an offence to harm animals during land clearing activities; enhance the effectiveness of the Biodiversity Conservation Program and Biodiversity Conservation Investment Strategy; impose more rigorous biodiversity offset measures (including removal of provision for payment of a fee as an alternative to other more direct offset measures); prevent planning approval being given where the impacts are deemed to be 'serious and irreversible'; improve reporting and public consultation requirements; and require a review of the Act in two years. All of the amendments were defeated, either on division or on the voices.

During consideration of the Local Land Services Amendment Bill in committee, the Greens, Opposition and AJP moved 51 amendments, principal amongst which were amendments to prevent the bill commencing before regulatory maps are developed; extend the objects of the bill; remove land clearing provisions that are conditional on a regulation which has not yet been published; broaden the definition of 'Category 2' land; make provision for a new category of protected land; enable individuals to request a review where they believe that land has been incorrectly categorised; make native vegetation codes disallowable; limit the impact of code-based activities on the environment; increase fines for failure to notify land clearing activities; require that notification of land clearing be given before the clearing takes place, rather than after; ensure compliance with land clearing certificates; require a review of the Act in two years; improve reporting and consultation requirements; increase membership of the Native Vegetation Panel and authorise the Governor, rather than the minister, to make appointments to the Panel; and ensure that Local Land Services maintains sufficiently detailed information in its public registers. These amendments were also defeated on the voices or on division. The Biodiversity Conservation Bill was reported from committee with an amendment and the Local Land Services Amendment Bill without amendment.

The third readings of the bills were agreed to and the bills were forwarded to the Assembly for concurrence. On Thursday, the Assembly agreed to the bills without amendment.

On Thursday 17 November 2016, the President announced that members of The Greens had lodged a protest against the bills with the Clerk. The protest was forwarded to His Excellency the Governor.

### **Independent Commission Against Corruption Amendment Bill 2016**

House of origin: Legislative Assembly

The bill amends the *Independent Commission Against Corruption Act 1988* by reforming the managerial structure of the Commission, implementing measures designed to enhance procedural fairness and removing limitations on the oversight arrangements for the ICAC. The bill also makes certain consequential amendments to the Act, other Acts and instruments. The bill is informed by 35 recommendations made by the Joint Parliamentary Committee on the Independent Commission Against Corruption in October 2016.

The structural changes made by the bill will see the ICAC move away from a single Commissioner model to a panel of Commissioners comprising of one Chief Commissioner and two other Commissioners, and the establishment of the role of a Chief Executive Officer to manage the day-to-day affairs of the Commission. The bill will also require the Commissioners to issue procedural guidelines relating to ICAC's conduct of public inquiries to its staff and counsel assisting the ICAC, prohibit the ICAC from making an adverse finding against a person in a report unless the affected person is given a reasonable opportunity to respond (via the inclusion in a report of the view of a person subject to an adverse finding).

In support of the bill, the Minister stated the new panel of Commissioners will bring a more diverse set of skills and experiences to bear on the ICAC's deliberations and will strengthen its decision-making, and that

the procedural fairness measures will ensure that persons against whom an adverse finding is made have the opportunity to respond.

The Opposition opposed the bill. While the Opposition did not oppose the model, they opposed provisions of the bill which they argued would force the dismissal of the current Commissioner of the ICAC, and require that the new Chief Commissioner be only consulted as to the appointment of the two additional Commissioners, rather than have a decisive role in the appointment process. The Opposition noted the role of the Chief Commissioner in the appointment of the two additional Commissioners varied the model recently implemented in the establishment of the Law Enforcement Conduct Commission. The Opposition moved an amendment to the second reading of the bill to have the bill read 'this day six months', which would effectively defeat the bill, however the amendment was negatived on division (Ayes: 17 / Noes: 21). The Opposition indicated that it would move amendments in committee to address its concerns with the bill.

The Greens also opposed the bill, contending that the appointment of new Commissioners by the Governor, on the advice of the Executive, would obstruct the effectiveness of the Commission. The Greens echoed the Opposition's concerns regarding the impact of the structural reform on the current Commissioner, arguing that the bill was a deliberate attempt to remove Commissioner Megan Latham following the Operation Spicer inquiry.

The CDP supported the bill, arguing that there has been criticism of ICAC and of the current commissioner and it was felt by the ICAC oversight committee that it was time to restructure the ICAC in an effort to address those perceived problems. The SFFP also supported the bill, arguing that the revised structure would address concerns about the operation of the ICAC that had arisen from recent inquiries concerning Deputy Senior Crown Prosecutor Margaret Cunneen SC and former State Emergency Service Commissioner Murray Kear. The second reading was agreed to on division (Ayes: 21/Noes: 17).

During the committee stage, the Opposition moved three amendments to the bill to require that the two new Commissioners be appointed with the concurrence of the Chief Commissioner and that the current ICAC Commissioner be appointed the new Chief Commissioner. All three amendments were defeated on divisions (Ayes: 17 / Noes: 21). The bill was reported from committee without amendment.

The third reading of the bill was agreed to on division (Ayes: 21/Noes: 17) and the bill was returned to the Assembly without amendment.

### **Rock Fishing Safety Bill 2016**

House of origin: Legislative Assembly

The bill implements recommendations made by the State Coroner for making the wearing the life jackets while rock fishing mandatory and making it an offence to permit a child under 12 in one's care or under one's supervision to rock fish in a high-risk rock fishing location.

The Parliamentary Secretary noted that the bill had been developed in consultation with the Rock Fishing Working Group, comprised of Government and non-government stakeholders, including the Department of Primary Industries, Marine Rescue NSW, the NSW Police Force, Transport for NSW, the Office of Local Government, Surf Life Saving NSW, Royal Life Saving New South Wales, Local Government NSW, the Recreational Fishing Alliance of NSW and experts.

The Opposition did not oppose the bill, acknowledging that the bill would save lives, however the Opposition criticised the Government for failing to require that people collecting bait from dangerous rock platforms also be required to wear a life jacket. The Opposition also indicated that it would move amendments during the committee stage to ensure that purpose-built rock fishing jackets available overseas would be deemed an authorised device under the new legislation. The Greens did not oppose the bill, noting the need to improve people's safety when they engage in any pastime, including fishing activities.

The Greens called on the Government to improve education measures in the community, particular those for non-English speaking communities.

The SFFP supported the bill but indicated that they would support the Opposition amendments, noting the need to ensure that activity-appropriate devices were available to fishers. The SFFP also indicated that they would move an amendment to improve education measures. The CDP also supported the bill, noting the number of lives lost during rock fishing activities. The CDP argued that a subcommittee foreshadowed to be established by the minister was the appropriate group to determine the appropriateness of different life jacket options. The second reading of the bill was agreed to.

During committee of the whole, the SFFP successfully moved an amendment which will require the Secretary of the Department of Justice to publish maps and descriptions of high risk rock fishing locations on the [www.watersafety.nsw.gov.au](http://www.watersafety.nsw.gov.au) website. The Opposition also moved their two amendments which sought to provide that a particular design of life jacket approved for use by the US Coast Guard was an appropriate life jacket for the purposes of the Act, however the amendments were defeated. The bill was reported from committee with the SFFP amendment.

The third reading was agreed to and the bill returned to the Assembly with an amendment, which the Assembly agreed to later that day.

### **Private members' business**

On Thursday, the House agreed to permit government business to take precedence of general business (private members' business) for this week only. Debate on private members' motions did not take place, however the House agreed to a variety of items of private members' business as formal business – that is, without amendment or debate.

#### *Motions taken as formal business*

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

- (1) Tyler Wright (Mr Green).
- (2) 69<sup>th</sup> Commissioned Police Officers Annual Dinner (Mr Clarke).
- (3) Annual Service for the Multi-Faith Observance of the Order Of Australia Association (Mr Clarke).
- (4) Armenian National Committee Of Australia Gala Banquet (Mr Clarke).
- (5) Filipino Australian Movement for Empowerment Christmas Celebration (Mr Clarke).
- (6) Diwali Festival Grand Celebration (Mr Clarke).
- (7) Order For Papers—Indoor Sports Stadium near Wentworth Park Sporting Complex Trust (Ms Voltz).
- (8) Festival of Diwali (Mr Clarke).
- (9) NSW Association of Jewish Ex-Servicemen and Women (Mr Clarke).
- (10) Earlwood Public School Centenary (Mrs Houssos).
- (11) Animal Abuse Victims of Domestic Violence (Mr Pearson).
- (12) Episcopal Ordination of New Auxiliary Bishops (Mr Clarke).



- (13) Palliative Care NSW Biennial State Conference (Dr Faruqi).
- (14) 76th Anniversary of Oxi Day (Mrs Houssos).
- (15) 2016 Russian Resurrection Film Festival (Mr Clarke).
- (16) Measuring Economic and Social Development (Ms Barham).
- (17) “Magen David Adom” (Mr Clarke).
- (18) Collingwood Beach (Mr Green).
- (19) St John Ambulance (NSW) Annual Awards Ceremony (Mrs Maclaren-Jones).
- (20) Climate Change (Ms Barham).
- (21) National Day of Greece Celebration (Mr Clarke).
- (22) Storms and Climate Change (Ms Barham).
- (23) Confluence – Festival of India in Australia (Mr Clarke).
- (24) Hellenic Annual Design Competition (Mr Clarke).
- (25) National and State Community Language Schools Conference (Mr Clarke).
- (26) President-elect Donald Trump (Revd Mr Nile).

#### Orders for papers

**Note:** The Council has a common law power to order the Government to produce State papers.

#### *Order made*

- (1) Indoor sports stadium near Wentworth Park sporting complex. The order requires documents relating to the location or feasibility of an indoor sports stadium in the central business district or near the Wentworth Park sporting complex from the Minister for Sport. The motion was agreed to as formal business. Due: 7 December 2016.

#### Petitions

- (1) Commercial fishing industry – 817 signatures (presented Mr Field).
- (2) TAFE funding – 1,187 signatures (presented Mr Veitch)
- (3) Shark nets in New South Wales – 399 signatures (presented Mr Field)
- (4) Relocation of Fairfield ambulance station – 1,271 signatures (Mr Green)

#### Committee activities

##### *Committee references*

**General Purpose Standing Committee No. 5:** The Chair informed the House that on 17 November 2016, the committee resolved to inquire into commercial fishing.

##### *Committee reports tabled*

**Legislation Review Committee:** ‘Legislation Review Digest No. 29/56’, dated 15 November 2016.

**Committee on Children and Young People:** ‘Sexualisation of children and young people’, dated 16 November 2016.

**Joint Standing Committee on Electoral Matters:** ‘Administration of the 2015 NSW Election and Related Matters’, dated 17 November 2016.

##### *Committee membership*

**Select Committee on Human Trafficking:** The Hon Trevor Khan MLC, the Hon Natasha Maclaren-Jones MLC and the Hon Matthew Mason-Cox MLC were nominated as Government members of the committee, and the Hon Greg Donnelly MLC and the Hon Ernest Wong MLC were nominated as Opposition members.

**General Purpose Standing Committee No. 3:** Ms Jan Barham MLC resigned as a member of the committee, with Mr Justin Field MLC replacing her as a cross-bench member. The Hon Michael Gallacher MLC replaced the Hon Ben Franklin MLC.

### **Inquiry activities**

#### **Select Committee on the Legislative Council committee system**

The committee is currently preparing its final report.

#### **Select Committee on Off-Protocol Chemotherapy in New South Wales**

The committee has conducted three hearings to date, including one in Orange. Further hearings will take place on 29 November 2016 and in February 2017. The committee is due to report by March 2017.

#### **Select Committee on Human Trafficking**

The closing date for submissions is 19 February 2017. The committee intends to hold hearings shortly after the submission period closes.

#### **General Purpose Standing Committee No. 2**

##### *Inquiry into child protection*

A private roundtable meeting to consider recommendations for the final report will be held later this month. The committee is expected to report by February 2017.

#### **General Purpose Standing Committee No. 3**

##### *Inquiry into enrolment capacity in inner city public primary schools*

The committee undertook a site visit on 11 November and will hold a public hearing at Parliament House on 25 November 2016.

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

The closing date for submissions is 26 February 2017. The committee intends to hold hearings in March 2017.

#### **General Purpose Standing Committee No. 4**

##### *Inquiry into museums and galleries*

The committee has received 171 submissions and held five public hearings to date. The committee will hold a further hearing on 17 February 2017 and has extended its reporting date to 30 March 2017.

#### **General Purpose Standing Committee No. 5**

##### *Inquiry into water augmentation for rural and regional New South Wales*

The closing date for submissions has been extended to 31 January 2017. The committee will undertake

further site visits and hearings in rural and regional New South Wales from early next year.

#### **Law and Justice Committee**

##### *First review into New South Wales workers compensation scheme*

The committee has received 82 submissions and held two public hearings. The committee is expected to report by March 2017.

#### **State Development Committee**

##### *Inquiry into regional planning processes in NSW*

The committee is currently preparing its report which will be tabled later this month.

#### **Social Issues Committee**

##### *Inquiry into childhood overweight and obesity*

The committee is currently preparing its report which will be tabled by the end of the year.

### **Reports tabled**

**Department of the Legislative Council:** Annual report of the Department of the Legislative Council for year ended 30 June 2016.

**Department of Parliamentary Services:** Annual report of the Department of Parliamentary Services for year ended 30 June 2016.

**Auditor General:** Financial Audit, Volume Six 2016, Report on Family and Community Services, November 2016.

**Ombudsman:** Report under Section 49(1) of the Surveillance Devices Act 2007 for the period ending 30 June 2016.

### **Adjournment debate**

#### **Tuesday 15 November 2016**

Red Tape (Mr Veitch); Antibiotic resistance (Mr Amato); Baird Government policies (Dr Faruqi); United States Election (Mr Farlow); Cardiovascular disease (Mr Wong); Orange By-election (Mr Borsak).

#### **Wednesday 16 November 2016**

Manmeet Alisher, Cycling (Mr Mookhey); Economic equality and stability (Mr Field); Reconciliation in Parliament (Mr Khan); Palliative care (Mr Donnelly); 2016 All Nations Convocation, Jerusalem, Israel (Revd Mr Nile); Hunter Bushfires (Mr MacDonald).

#### **Thursday 17 November 2016**

Biodiversity (Mr Colless); Greyhound Racing Industry (Mr Pearson); United States Election (Mr Searle); Death of Mark Anthony Haines (Mr Shoebridge);

North Coast environment protection (Mr Franklin);  
Literacy (Mr Graham).

**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](mailto:stephen.frappell@parliament.nsw.gov.au).

All responses will be kept strictly confidential.

A handwritten signature in black ink, appearing to be 'DB', written in a cursive style.

David Blunt  
**Clerk of the Parliaments**