

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



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4 to 6 September 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](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 first of what will be three consecutive sitting weeks was dominated by private members' business, with it taking precedence on Tuesday as well as Thursday, while on the Wednesday the House completed consideration of four government bills.

On Thursday the House resolved to appoint a Select Committee to inquire into and report on the closure or downsizing of Corrective Services NSW facilities.

### Statement by the President

On Thursday 6 September 2012, after two particularly robust Question Times, the President made a statement with respect to the conduct of Question Time. The President emphasised that the purpose of Question Time was to seek information from Ministers. Further, the President reminded members that interjections, while tolerated when acting to facilitate debate, were strictly disorderly and would not be tolerated if disruptive, such that members are unable to hear the responses of Ministers to questions asked of them.

### Government business

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

### National Parks and Wildlife (Adjustment of Areas) Bill 2012

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *National Parks and Wildlife Act 1974* to change the reservation status of certain lands under the Act. Of note, the bill changes the reservation of the 3,876 hectare Berowra Valley Regional Park to a national park to be known as Berowra Valley National Park. In addition, the bill enables upgrades to the Pacific and Princes Highways by revoking around 38 hectares of land from reservation.

*Proceedings:* The bill was received from the Legislative Assembly on 22 August 2012 and read a first time. Debate on the second reading of the bill commenced on 5 September 2012. In his second reading speech, the Parliamentary Secretary (Mr Mason-Cox) indicated that

the bill balances environmental protection with the need to support essential public infrastructure development.

The Opposition supported the bill and the creation of the Berowra Valley National Park, citing its conservation value and the efforts of locals who have worked over many years for the valley's protection. However, the Opposition expressed concern over the failure of the bill to incorporate in the new National Park the critically endangered Blue Gum High Forest in Old Mans Valley. The Greens similarly supported the bill, welcoming the upgraded protection of various flora and fauna, including endangered species, found in the Park, and also praising the work of conservationists in lobbying for the Park's protection over many years. However, the Greens raised concerns about the interpretation and application of the principles and objectives of national parks in relation to recreational activities. The Christian Democratic Party also supported the bill, citing the protection of Berowra Valley as National Park as long overdue. Government members spoke of the environmental benefits of the bill, and the upgrading of road corridors. In his reply, the Parliamentary Secretary noted that less than 10 hectares of blue gum forest remain outside the Park, and that it is cooperatively managed by the Hornsby Shire Council and the National Parks and Wildlife Service.

The second reading was agreed to.

In the committee stage, the Greens moved an amendment to require that all practical alternatives to revocation from national parks are considered before a revocation takes place, and that where revocations are made, compensatory land of equal or greater conservation value is added to the reserve system. The Government argued that it is already Government policy that revoked land must be compensated for with the transfer to the national park estate of land of equal or greater conservation value and size. In addition, revocations already need an act of the Parliament before they can proceed. The amendment was negatived.

The bill was reported to the House without amendment, read a third time and returned to the Assembly.

## **Courts and Other Legislation Amendment Bill 2012**

The bill originated in the Legislative Assembly.

*Summary:* The bill makes miscellaneous amendments to legislation affecting the operation of courts in New South Wales and to other legislation administered by the Attorney General and the Minister for Justice.

*Proceedings:* The bill was received from the Legislative Assembly on 4 September and read a first time. Debate on the second reading of the bill commenced on 5 September 2012. In his second reading speech, the Parliamentary Secretary (Mr Clarke) said that the bill is part of the Government's regular legislative review and monitoring program and will amend a number of Acts to improve the efficiency and operation of courts and the operation of agencies within the Department of Attorney General and Justice.

Members of the Government and the Christian Democratic Party supported the bill. The Opposition did not oppose the bill, noting that such bills were a sensible and efficient way to make minor amendments to a range of legislation. The Opposition stated that it intended to monitor the provision requiring parties to seek the leave of the Land and Environment Court to be represented by a lay advocate or agent. The Greens supported the majority of the provisions within the bill. However, the Greens held strong reservations regarding the provision to remove the requirement that notices of probate administration matters be published in newspapers.

The second reading was agreed to.

In the committee stage the Greens, with the support of the Opposition, moved an amendment to ensure that probate administration matters would continue to be published in newspapers as well as in any online publication facility. The amendment was negatived (Division 18:21).

The bill was reported without amendment, read a third time and returned to the Assembly.

## **Emergency Legislation Amendment Bill 2012**

The bill originated in the Legislative Council.

*Summary:* The bill amends the *Fire Brigades Act 1989*, the *Rural Fires Act 1997*, the *State Emergency and Rescue Management Act 1989* and the *State Emergency Service Act 1989* to make further provision in relation to the investigation of fires and to State emergency management.

*Proceedings:* Debate on the second reading of the bill resumed on 5 September 2012 from 22 August 2012 (see the previous edition of *House in Review* for earlier debate). Members of the Government, the Greens and the Christian Democratic Party supported the bill. The Opposition also supported the bill, but took the opportunity to note that it, among other things, formalises the decision (strongly criticised by the Opposition) taken by the Government immediately following the election to remove the dedicated position of State Emergency Recovery Controller

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

## **Succession Amendment (International Wills) Bill 2012**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Succession Act 2006* to make provision for international wills by adopting into New South Wales law the uniform law contained in the International Institute for the Unification of Private Law (UNIDROIT) Convention Providing a Uniform Law on the Form of an International Will 1973. The convention entered into force on 9 February 1978.

*Proceedings:* The bill was received from the Legislative Assembly on 4 September and read a first time. Debate on the second reading of the bill commenced on 5 September 2012. In his second reading speech, the Parliamentary Secretary (Mr Clarke) said the bill adopts a uniform law that is currently in force in a number of other countries and provinces. Mr Clarke argued that the key benefit of adopting the convention is that it provides greater legal certainty for testators as the uniform set of requirements for an international will, shall be recognised as valid by courts in Australia and in other countries that are parties to the convention.

The Opposition did not oppose the bill stating that it simplifies a complex process by relieving courts of any need to determine whether the laws of a foreign country have been complied with in the execution of a will and will make it easier to prove the formal validity of wills. The Christian Democratic Party and the Greens supported the bill.

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

## **Crimes Amendment (Cheating at Gambling) Bill 2012**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Crimes Act 1900* to prohibit certain conduct that can corrupt the betting outcomes of events on which it is lawful to bet. The bill creates a range of specific offences available to prosecute those who seek to fix a betting outcome or profit from such a fix.

*Proceedings:* The bill was received from the Legislative Assembly on 4 September and read a first time. The second reading of the bill was set down for the next sitting day.

### **Message from the Assembly**

The House received the following message from the Legislative Assembly relating to a bill forwarded to the Assembly by the Council in a previous sitting week.

**Fines Amendment Bill 2012:** On 7 September 2012 the Assembly advised it had agreed to the bill which it was returning without amendment.

## 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*

#### **Game and Feral Animal Control Further Amendment Bill 2012 (Mr Brown, Shooters and Fishers Party)**

The bill originated in the Legislative Council.

*Summary:* The bill seeks to amend the *Game and Feral Animal Control Act 2002* and the *National Park and Wildlife Act 1974* by making further provisions with respect to the hunting of game birds and other game animals including the creation of a game management licence authorising the hunting of game animals for non-commercial purposes on specified land, and the inclusion of ducks and other game birds in the list of game animals that may be hunted under the authority of the Act.

*Proceedings:* Standing orders were suspended to bring on the item of business. The bill was introduced, read a first time and printed on 4 September 2012. In his second reading speech, Mr Brown said the bill removes unnecessary red tape by vesting sole authority for the issuing of game hunting licences with the Game Council NSW and removing the need for initial application to the National Parks and Wildlife Service. Mr Brown also outlined the damage to irrigation crops caused by uncontrolled numbers of certain water fowl species.

Debate was adjourned for five calendar days.

### *Motions*

#### **Treatment of people with mental illness (Ms Voltz, Australian Labor Party)**

*Summary:* The motion noted the significant debate, generated by the recent tragic murder of members of a family by another family member suffering from mental illness, regarding the effectiveness of psychiatric treatment which requires intervention only when 'necessary for a person's own protection from serious harm'. The motion called on the Government to conduct a public inquiry into the legislation governing the treatment of people with mental illness.

*Proceedings:* Standing orders were suspended to bring on the item of business. The motion was debated. Members from all parties spoke in support of the need for a review of the *Mental Health Act 2007* and, in particular, the emotionally charged and vexed issue of enforced treatment.

An Opposition amendment to specify that the proposed inquiry encompass the current definition of mentally ill persons in section 14 of the *Mental Health Act 2007* and investigate calls for a move to capacity-based, best interest mental health legislation was agreed to.

The motion, as amended, was agreed to.

#### **NSW Grandparents Day (Mrs Maclaren-Jones, Liberal Party)**

NSW Grandparents Day will be held on Sunday 28 October 2012 to promote the valuable contribution grandparents make to family life and the broader community, and to commend the Government for introducing NSW Grandparents Day on which the winners of the NSW Grandparents of the Year awards will be announced.

*Proceedings:* Standing orders were suspended to bring on the item of business. The motion was debated. In speaking to the motion, Mrs Maclaren-Jones said the debate provided an opportunity to promote NSW Grandparents Day across the State and to acknowledge the increasingly important role that grandparents now play in society. Members from all sides supported the acknowledgement of grandparents.

During debate, Ms Westwood, moved an amendment to commend the Council on Ageing rather than the O'Farrell Government for introducing NSW Grandparents Day. Mr Ajaka subsequently moved an amendment to Ms Westwood's amendment so that the motion commended the Council on Ageing in partnership with the O'Farrell Government.

The amendments of Mr Ajaka and Ms Westwood were agreed to, and the motion, as amended, was agreed to.

#### **Select Committee on the closure or downsizing of Corrective Services NSW facilities (Mr Veitch, Australian Labor Party)**

*Summary:* The motion called on the House to appoint a select committee to inquire into and report on the closure and/or downsizing of Corrective Services NSW facilities since 26 March 2011.

*Proceedings:* Standing orders were suspended to bring on the item of business. Mr Veitch, by leave, amended the motion to stipulate that Mr Green (Christian Democratic Party) be a member and Chair of the select committee. The motion was debated. Mr Clarke (Government) moved that the motion be amended by removing the restriction in the terms of reference to investigation of closures that had occurred 'since 26 March 2011'. Mr Shoebridge (The Greens) moved that when investigating the impact on staff and their families of any closure or downsizing, the committee should in particular consider the impact on families of Indigenous inmates.

The amendments of Mr Clarke and Mr Shoebridge were agreed to, and the motion, as amended, 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) Cootamundra Domestic Training Homes for Aboriginal Girls (Mr Veitch)
- (2) 'Great Flood' at Gundagai (Mr Veitch)
- (3) Mr Ben Hornby (Mr Ajaka)
- (4) Pride of Australia medal recipient (Ms Ficarra)

- (5) New South Wales Parents' Council's 50<sup>th</sup> anniversary (Mr Donnelly)
- (6) Ms Brittany Davenport (Ms Ficarra)
- (7) Ms Nancy Wake AC GM (Ms Ficarra)
- (8) Legacy Week (Ms Westwood)
- (9) Wear it Purple Day (Ms Sharpe)
- (10) Ride for Life race and Poly's Plate luncheon (Ms Ficarra)
- (11) Australian Father of the Year Award recipient (Ms Ficarra).

*Items of private members business items sought to be brought on by suspension of standing and sessional orders*

The House debated attempts to bring on the following items of private members' business by suspension of standing and sessional orders:

- (1) Mullumbimby Hospital (Dr Kaye) – motion negated on division (18:21).
- (2) Workers Compensation Legislation Amendment (Costs) Bill 2012 (Mr Shoebridge) – motion negated on division (18:21).
- (3) Local government pecuniary interest laws (Mr Shoebridge) – motion negated on the voices.

### Petition received

- (1) Religious discrimination – 66 signatures (presented Mr Moselmane).

### Debate on budget estimates

The House continued the take-note debate on the Budget Estimates and related papers for the financial year 2012-2013.

### Reports tabled

**Independent Commission Against Corruption:** 'Investigation into the conduct of a University of New England (UNE) procurement officer and UNE contractors', August 2012.

**Unproclaimed legislation:** Mr Clarke tabled a list of unproclaimed legislation as at 4 September 2012.

### Committee activities

**Note:** Committee activities includes committee references, reports tabled, debate on committee reports, government responses received and any other significant committee activity in the House.

#### *Committee reference*

The House established a Select Committee to conduct an inquiry into the closure and/or downsizing of Corrective Services NSW facilities.

#### *Committee reports tabled*

**Legislation Review Committee:** 'Legislation Review Digest No. 23 of 2012', 4 September 2012.

**Standing Committee on Social Issues:** Report No. 46 entitled 'Domestic violence trends and issues in New South Wales', 27 August 2012.

#### *Committee reports debated*

**Standing Committee on Social Issues:** The House concluded the take-note debate on Report No. 45 entitled 'Transition support for students with additional or complex needs and their families', March 2012.

**Standing Committee on Law and Justice:** The House concluded the take-note debate on Report No. 49 entitled 'Opportunities to consolidate tribunals in NSW', March 2012.

**General Purpose Standing Committee No 2:** The House continued the take-note debate on Report No. 38 entitled 'Education Amendment (Ethics Classes Repeal) Bill 2011', May 2012.

**Standing Committee on State Development:** The House continued the take-note debate on Report No. 36 entitled 'Economic and social development in central western New South Wales', May 2012.

#### *Government response*

**Standing Committee on Social Issues:** The House received a response to Report No. 45 entitled 'Transition support for students with additional or complex needs and their families', tabled 6 September 2012.

### Inquiry activities

**Note:** Inquiry activities include committee activities as part of an active inquiry. It includes hearings, site visits and other meetings. This section also notes which committees are receiving submissions and upcoming committee inquiry activity.

#### **Standing Committee on State Development**

The Committee has received approximately 100 submissions to its inquiry into the adequacy of water storages in NSW. The Committee conducted its first site visit last week to the Shoalhaven and Goulburn areas, inspecting a number of facilities including the Bamarang Water Treatment Plant, Tallowa Dam and the Highlands Source Pipeline pumping station. A further site visit will be conducted in late October to Orange and the Murrumbidgee Valley.

#### **Standing Committee on Social Issues**

The final report on domestic violence trends and issues was tabled in Parliament on Monday 27 August 2012. The report made 89 recommendations to improve the State's response to domestic violence including a greater focus on the needs of individual victims. The report recommended that a Ministerial Council headed by the Premier should be established to lead the State's response to domestic violence.

#### **Select Committee on the closure of the Cronulla Fisheries Centre**

The Committee held a site visit at the Sydney Institute of Marine Science, Mosman, on 31 August 2012. A second hearing was held on 3 September, and was immediately followed by a public forum. One further public hearing is

scheduled for Monday 10 September 2012 involving representatives of commercial fishers and the Department of Primary Industries. The Committee has received 106 submissions to date and is required to table its final report by 23 October 2012.

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

The Committee held its first public hearing in Sydney for its inquiry into public land management on Friday 7 September 2012 at Parliament House, with another scheduled for 14 September. The Committee will conduct further site visits in late September and early October.

#### **Select Committee on the Partial Defence of Provocation**

The Committee has received 48 submissions and held two days of public hearings at Parliament House on Tuesday 28 and Wednesday 29 August 2012. The Committee heard evidence from a range of stakeholders including legal services, advocacy groups, academics and government agencies. A third day of public hearings is to be held on Friday 21 September at Parliament House.

### **Adjournment debate**

#### **Tuesday 4 September 2012**

Tribute to John 'Jethro' Thompson, AO (Mr Lynn); Child pedestrian safety (Mr Veitch); Feral animal culling bounty (Mr Borsak); Rambam Israel Fellowship program (Mr Secord); R U OK? Day (Mr Green); Lennox Head swamp wallabies (Ms Cusack); The Hon Dr Peter Phelps Twitter account (Dr Phelps).

#### **Wednesday 5 September 2012**

Wear it Purple (Mr Khan); Local government (Ms Cotsis); Iraq War (Mr Moselmane); Child sexual assault sentences (Revd Mr Nile); Murray regional development (Mr Mason-Cox); Child sexual abuse (Mr Shoebridge); Iraq War (Mr MacDonald).

#### **Thursday 6 September 2012**

Koala habitat conservation (Mr Foley); Mullumbimby Hospital telemedicine service (Dr Kaye); Girl Guides NSW & ACT (Mrs Maclaren-Jones); Member for South Coast election commitments (Ms Sharpe); Child Protection Week (Ms Barham); Religious freedom (Mr Clarke); Suicide prevention (Ms Fazio).

### **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.



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