

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



*Volume 55/1*

*Sitting period  
3 to 6 May 2011*

The *House in Review* provides a summary of the New South Wales Legislative Council's activities for each sitting week. 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).

### **New Parliament**

The 55<sup>th</sup> Parliament of New South Wales was officially opened by Commission on Tuesday, 3 May 2011 at a joint sitting of both Houses of Parliament.

The following members, who were elected at the periodic Council election held on 26 March 2011, took the Pledge of Loyalty and signed the Roll of the House:

1. The Hon Michael Gallacher
2. The Hon Eric Roozendaal
3. The Hon David Shoebridge
4. The Hon Duncan Gay
5. The Hon Greg Donnelly
6. The Hon Jan Barham
7. The Hon Greg Pearce
8. The Hon Penny Sharpe
9. The Hon David Clarke
10. The Hon Peter Primrose
11. The Hon Rick Colless
12. The Hon Tony Kelly
13. The Hon Scot MacDonald
14. The Hon Catherine Cusack
15. The Hon Natasha Maclaren-Jones
16. The Hon Dr Peter Phelps
17. The Hon Niall Blair
18. The Hon Robert Brown
19. The Hon Paul Green
20. The Hon Jeremy Buckingham
21. The Hon Sarah Mitchell (nee Johnston).

When the new members had been sworn in, the Clerk informed the House that the Office of the President of the Legislative Council had become vacant following the periodic Council election, and called for nominations. There being only one nomination, the Hon Don Harwin was elected President.

The President then conducted elections for the offices of Deputy President and Assistant President. There being only one nomination for the office of Deputy President, the Hon Jenny Gardiner was elected Deputy President.

As there were two nominations for the office of Assistant President a ballot was held, with the result as follows:

Revd the Hon Fred Nile (Christian Democratic Party) – 25 votes

The Hon Cate Faehrmann (The Greens) – 15 votes

Unmarked – 1 vote.

Revd Mr Nile was therefore elected Assistant President.

After the elections were completed, the House adjourned for the purposes of presenting its new President to Her Excellency the Governor.

When the House reconvened in the afternoon, the Governor attended the Legislative Council and addressed members of both Houses, their invited guests and dignitaries. The Governor's speech outlined the Government's proposed program for the 55<sup>th</sup> Parliament, including the Government's Five Point Action Plan.

### **Address-in-Reply**

Debate commenced on the Address-in-Reply. The Address-in-Reply is prepared in response to the opening speech given by Her Excellency the Governor at an official opening of Parliament. The reply expresses the thanks of members for the Governor's speech. There is wide-ranging debate on the motion to adopt the Address-in-Reply, with members discussing any matters which can be properly considered by Parliament.

### **Letters of condolence**

The President informed the House that, on behalf of the members of the Legislative Council and the people of NSW, she had sent condolence letters expressing sympathy to:

1. The Premier of Queensland regarding the floods in Queensland

2. The Ambassador of Russia regarding the bombing at Moscow's airport
3. The Consul-General of Indonesia regarding the attack at Cikeusik
4. The Speaker of the New Zealand Parliament regarding the earthquake in Christchurch
5. The Consul-General of Japan regarding the earthquake and subsequent tsunami in Japan.

Members and officers stood as a mark of respect.

### **Changes in Administration**

Mr Gallacher informed the House that the following persons were appointed as ministers, following the election of the O'Farrell Government:

- The Hon Barry O'Farrell MP, Premier, Minister for Western Sydney
- The Hon Andrew Stoner MP, Deputy Premier, Minister for Trade and Investment, Minister for Regional Infrastructure and Services
- The Hon Jillian Skinner MP, Minister for Health, Minister for Medical Research
- The Hon Adrian Piccoli MP, Minister for Education
- The Hon Michael Gallacher MLC, Minister for Police and Emergency Services, Minister for the Hunter, Vice-President of the Executive Council
- The Hon Duncan Gay MLC, Minister for Roads and Ports
- The Hon Brad Hazzard MP, Minister for Planning and Infrastructure, Minister Assisting the Premier on Infrastructure NSW
- The Hon Christopher Hartcher MP, Minister for Resources and Energy, Special Minister of State, Minister for the Central Coast
- The Hon Gladys Berijikian MP, Minister for Transport
- The Hon George Souris MP, Minister for Tourism, Major Events, Hospitality and Racing, Minister for the Arts
- The Hon Michael Baird MP, Treasurer
- The Hon Gregory Pearce MLC, Minister for Finance and Services, Minister for the Illawarra
- The Hon Katrina Hodgkinson MLC, Minister for Primary Industries, Minister for Small Business
- The Hon Andrew Constance MP, Minister for Ageing, Minister for Disability Services
- The Hon Gregory Smith MP, Attorney General, Minister for Justice
- The Hon Donald Page MP, Minister for Local Government, Minister for the North Coast
- The Hon Prudence Goward MP, Minister for Family and Community Services, Minister for Women

- The Hon Anthony Roberts MP, Minister for Fair Trading
- The Hon Kevin Humphries MP, Minister for Mental Health, Minister for Healthy Lifestyles, Minister for Western NSW
- The Hon Robyn Parker MP, Minister for the Environment, Minister for Heritage
- The Hon Victor Dominello MP, Minister for Citizenship and Communities, Minister for Aboriginal Affairs
- The Hon Graham Annesley MP, Minister for Sport and Recreation.

Mr Gallacher also informed the House that on 4 May 2011, the following persons were appointed as Parliamentary Secretaries:

- The Hon John Ajaka MLC, Parliamentary Secretary for Transport and Roads
- Mr Craig Baumann MP, Parliamentary Secretary for Regional Planning
- Mr Steve Cansdell MP, Parliamentary Secretary for Police
- The Hon David Clarke MLC, Parliamentary Secretary for Justice
- The Hon Marie Ficarra MLC, Parliamentary Secretary to the Premier
- Mr Troy Grant MP, Parliamentary Secretary for Natural Resources
- The Hon Charlie Lynn MLC, Parliamentary Secretary for Veterans Affairs
- The Hon Matthew Mason-Cox MLC, Parliamentary Secretary for Treasury and Finance
- The Hon Melinda Pavey MLC, Parliamentary Secretary for Regional Health
- Mr Rob Stokes MP, Parliamentary Secretary for Renewable Energy
- Mr Paul Toole MP, Parliamentary Secretary to the Deputy Premier and for Asia-Pacific Trade
- Ms Gabrielle Upton MP, Parliamentary Secretary for Tertiary Education and Skills
- Mr Ray Williams MP, Parliamentary Secretary for Western Sydney.

### **Representation of parties in the Council**

Mr Gallacher, Mr Kelly and Revd Mr Nile informed the House regarding the representation of their parties in the Legislative Council, and the appointment of members to the following positions:

- Mr Gallacher, Leader of the Government
- Mr Gay, Deputy Leader of the Government, Leader of the House
- Dr Phelps, Government Whip

- Mr Kelly, Leader of the Opposition
- Mr Foley, Deputy Leader of the Opposition
- Ms Amanda Fazio, Opposition Whip
- Ms Voltz, Deputy Opposition Whip
- Revd Mr Nile, Leader of the Christian Democratic Party (Fred Nile Group).

Dr Kaye made a statement that the members of the Greens would share portfolio responsibilities rather than appoint a leader.

## Election petition

On Thursday, 5 May 2011, the President informed the House of the receipt from the Supreme Court of a copy of a petition from Ms Pauline Hanson, disputing the outcome of the recent periodic Council election. The petition sought a declaration that either Ms Sarah Johnston or Mr Jeremy Buckingham was not duly elected at the periodic Council election, and a consequent declaration that Ms Pauline Hanson was duly elected.

## New members' first speech

Dr Phelps gave his first speech on Wednesday, 4 May 2011.

## Government business

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

### Miscellaneous Acts Amendment (Directors' Liability) Bill 2011

*Summary:* The bill was introduced as the result of an agreement by the Council of Australian Governments to harmonise legislation imposing directors' liability across Australian jurisdictions. At present, various Acts impose on the directors of corporations personal liability for certain offences committed by corporations (known as 'directors' liability'). The bill amends the legislation that imposes directors' liability to change the type of liability imposed for certain offences (from accessorial liability to deemed liability, and vice versa), and removes the imposition of directors' liability in respect of certain offences.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, Mr Pearce indicated that in general, the bill will remove the imposition of directors' and executive officers' liability for certain offences and lower the level of liability from deemed liability to accessorial liability for other offences. Members of the Government argued that the bill is needed to reduce the complexity and cost of doing business; and to promote corporate compliance and risk management. The Government stated that the bill strikes the appropriate balance between accountability and scrutiny.

The Opposition did not oppose the bill on the grounds that legislative consistency between States and Territories is needed in this area, but argued that further reform is necessary. The Greens supported elements of the bill but

foreshadowed amendments in committee of the whole. The Greens expressed concern that the legislation may reduce corporate accountability and have a negative impact on employee protection. The Christian Democratic Party supported the bill and urged the Parliament to monitor the operation of the legislation to ensure that it is not used to avoid corporate responsibilities. The second reading was agreed to.

In the committee stage the Greens moved six amendments, which in general were designed to remove provisions in the bill that end a director's liability to comply with certain provisions of various acts, including the *Children and Young Persons (Care and Protection) Act 1998*, *Food Act 2003*, *Industrial Relations Act 1996* and the *Mining Act 1992*.

The Government opposed the amendments on the grounds that it is sufficient for a corporation itself, rather than its directors, to be liable for contraventions of the Acts. The Opposition opposed the amendments and argued that the amendments were not in accordance with the national position reached as a result of the COAG process. Greens amendments 1, 2 and 3 were negatived on the voices. Greens amendments 4, 5 and 6 were negatived on division (Division 5:32).

The bill was reported to the House without amendment, read a third time (Division 33:5) and returned to the Assembly without amendment.

### Lobbying of Government Officials Bill 2011

*Summary:* The aim of the bill is to prohibit the giving or receipt of success fees for the lobbying of Government officials. The bill defines a 'Government official' to include ministers or parliamentary secretaries and their staff, as well as public servants. Under the bill, any such success fees could be forfeited to the Crown.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, Mr Pearce noted that the bill would strengthen the regulation of lobbying in NSW and fulfil a pre-election commitment by Premier O'Farrell. Other Government members argued that the bill would restore integrity to the political system in NSW, and ensure that lobbying is done ethically and at the highest standards.

The Opposition supported the bill. The Opposition described integrity and accountability reforms as an ongoing process, and argued that the bill is another building block in this process. The Opposition foreshadowed amendments in the committee stage to increase penalties for contravening the legislation. Debate was adjourned.

### Constitution Amendment (Prorogation of Parliament) Bill 2011

*Summary:* Under section 24 of the *Constitution Act 1902*, the Legislative Assembly expires on the Friday before the first Saturday in March prior to a scheduled general election.

The object of this Bill is to amend the *Constitution Act 1902* to prevent the Government from advising the Governor to prorogue Parliament at any time after the fourth Saturday in September and before 26 January prior to that expiry.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time.

### **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.

#### *Bills*

### **Marine Parks Amendment (Moratorium) Bill 2011 (Mr Brown, Shooters and Fishers Party)**

The bill originated in the Legislative Council.

*Summary:* The bill provides for the imposition of a five-year moratorium on the declaration of additional marine parks or the expansion of sanctuary zones within existing marine parks.

*Proceedings:* The bill was introduced and read a first time. In his second reading speech, Mr Brown noted that the bill had been introduced in the previous Parliament. Mr Brown referred to the substantial public debate on marine parks in the past two years, and argued that the bill was necessary to remove the politics from the debate. According to Mr Brown, a five-year moratorium on marine parks would provide a reasonable period of time for proper scientific research on the impact of marine parks. Mr Brown argued that the Government would need to make significant amounts of money available for the scientific research. Debate was adjourned.

### **Evidence Amendment (Protection of Journalists' Sources) Bill 2011 (Mr Shoebridge, Greens)**

The bill originated in the Legislative Council.

*Summary:* The bill amends the *Evidence Act 1995* to protect journalists' sources from disclosure in legal proceedings. However journalists' sources would not be protected if the court is satisfied that there is a public interest in having an informant's identity disclosed in certain defined circumstances.

*Proceedings:* Standing orders were suspended to bring on the item of business. The bill was introduced and read a first time. In his second reading speech, Mr Shoebridge referred to recent proceedings in the Supreme Court which he argued highlighted a significant gap in the legal protection of journalists in NSW requiring urgent reform. Mr Shoebridge noted that the bill is modelled on the Commonwealth legislation but expands on that legislation. Debate was adjourned.

#### *Motions*

### **National Tree Day & School Tree Day (Mr Moselmane, Opposition)**

*Summary:* The motion concerned the importance of National Tree Day and National School Day on 31 and 29 July respectively, which together comprise Australia's biggest tree-planting event. The motion noted that the purpose of National Tree Day and National School Day is to bring together community groups, schools and businesses to enrich the natural environment for the benefit of all.

*Proceedings:* The motion received widespread support across party lines. A number of speakers recognised the importance of tree-planting and caring for the environment. Speakers also referred to the value of such community-building activities. The motion was agreed to.

### **70<sup>th</sup> Anniversary of the Battle of Crete (Ms Cotsis, Opposition)**

*Summary:* The motion noted that this year marks the 70<sup>th</sup> anniversary of the Battle of Crete. The motion acknowledged the courage of the Cretan people, noted the unity forged between Greek and Australian soldiers in battle, and honoured the sacrifices made by Greek and Australian soldiers in WWII campaigns in Greece.

*Proceedings:* A number of members spoke in support of the motion, which received widespread support. Speakers recognised the heroism and bravery of Greek and Australian forces, and the civilian Greek population, and the importance of commemorating the Battle of Crete. Members also referred to the contribution of Greek Australians in Australian society. The motion was agreed to.

### **Plain packaging for tobacco (Ms Sharpe, Opposition)**

*Summary:* The motion called on the House to support the Federal Government's attempts to introduce plain packaging for tobacco.

*Proceedings:* Standing orders were suspended to bring on the item of business. During debate, the Government effectively announced its position on this important public health issue. The Government advised that it would support the mandating of plain packaging as part of a comprehensive approach to reducing smoking. A number of speakers commented on the serious health damage resulting from tobacco smoking and the need to support measures intended to reduce smoking rates. The motion was agreed to.

## Orders for papers

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

### *Order made*

1. **Election of Mr John Frederick Flowers MP** (Mr Foley): The order relates to the eligibility of Mr John Flowers, Member for Rockdale, to be elected and to hold a seat as a member of the Legislative Assembly. The motion, as amended, was agreed to. Due: 20 May 2011.

### *Return to Address to the Governor*

1. **Birdon Marine Pty Ltd:** correspondence dated 17 December 2010 from the Official Secretary to Her Excellency the Governor regarding an Address to the Governor for papers relating to Birdon Marine Pty Ltd. On the advice of the Executive Council, the Governor refused the request.

### *Returns to orders*

1. **Review of the security industry:** received 9 December 2010, 1 box public.
2. **Alcohol Licensing Enforcement Command – Further order:** received 9 December 2010, 2 boxes public.
3. **Revised HEZ Desktop Biobank Assessment:** received 9 December 2010, 1 box public.
4. **Local Health Networks:** received 13 December 2010, 1 box public.
5. **Cessnock Council – additional documents:** received 15 December 2010, 1 box public.
6. **Birdon Marine Pty Ltd:** received 16 December 2010, 5 boxes public, 7 boxes privileged.
7. **Rest area at Varroville:** received 21 December 2010, 4 boxes public, one box privileged.
8. **Thirlmere Lakes:** received 21 December 2010, 5 boxes public, one box privileged.

## Petitions received

1. Opposition to euthanasia – 1,102 signatures (presented Revd Mr Nile)
2. Opposition to euthanasia legislation – 39 signatures (presented Revd Mr Nile)
3. Adoption laws – 162 signatures (presented Revd Mr Nile)
4. Unborn child protection – 83 signatures (presented Revd Mr Nile)
5. Support for scripture classes – 358 signatures (presented Revd Mr Nile)
6. Support for an open Australia – 414 signatures (presented Revd Mr Nile)
7. Sow stalls – 503 signatures (irregular, presented Ms Fahrman).

## Committee activities

### *Committee reports tabled – from the previous Parliament*

**Select Committee on Recreational Fishing:** ‘Recreational Fishing in New South Wales’, December 2010.

### **General Purpose Standing Committee No. 1:**

1. Report No. 35, ‘Budget Estimates 2010-2011’, December 2010
2. Report No. 36, ‘The Gentrader transactions’, February 2011.

**General Purpose Standing Committee No. 4:** Report No. 24, ‘Budget Estimates 2010-2011’, December 2010.

### *Government responses – to reports from the previous Parliament*

### **Standing Committee on Law and Justice:**

1. The House received a response to Report No. 44 entitled ‘Inquiry into judge alone trials under s. 132 of the *Criminal Procedure Act 1986*’, tabled November 2010.
2. The House received a response to Report No. 46 entitled ‘Inquiry into the eligibility of members of Parliament to serve on juries’, tabled November 2010.

**General Purpose Standing Committee No. 2:** The House received a response to Report No. 34 entitled ‘The provision of education to students with a disability or special needs’, tabled July 2010.

**Standing Committee on Social Issues:** The House received a response to Report No. 43 entitled ‘Substitute decision-making for people lacking capacity’, tabled February 2010.

## Memoranda of understanding tabled

The President tabled the following memoranda of understanding concerning the execution of search warrants on the office of members of Parliament:

1. Memorandum of Understanding on the execution of search warrants in the Parliament House office of members of the New South Wales Parliament between the Commissioner of the Independent Commission Against Corruption, the President of the Legislative Council and the Speaker of the Legislative Assembly, dated December 2009.
2. Memorandum of Understanding on the execution of search warrants in the premises of members of the New South Wales Parliament between the Commissioner of Police, the President of the Legislative Council and the Speaker of the Legislative Assembly, dated November 2010.

## Reports tabled

### Auditor General:

1. Financial Audits report, Volume Ten 2010, focusing on Education and Communities, December 2010.
2. Performance Audit report of the Auditor-General entitled 'Sick Leave: Department of Premier and Cabinet', December 2010.
3. Financial Audits report, Volume Eleven 2010, focusing on Health and Ports, December 2010.
4. Performance Audit report of the Auditor-General entitled 'Mental Health Workforce: NSW Health', December 2010.
5. Financial Audits report, Volume One 2011, February 2011.
6. Performance Audit report entitled 'The Effectiveness of Cautioning for Minor Cannabis Offences: NSW Police Force, NSW Health', April 2011.

### Independent Commission Against Corruption:

1. 'Investigation into the submission of false claims for sitting day relief entitlement by Angela D'Amore MP and some members of her staff', December 2010.
2. 'Investigation into the acceptance of corrupt benefits by a City of Canada Bay Council employee', December 2010.
3. 'Investigation into corrupt conduct of Sydney Water employees and others', March 2011.
4. 'Investigation into alleged corrupt conduct involving Burwood Council's General Manager and others', April 2011.

**Inspector of Independent Commission Against Corruption:** 'Report of an audit of applications for and execution of search warrants by the Independent Commission Against Corruption', December 2010.

### Ombudsman:

1. Special report entitled 'Inquiry into service provision to the Bourke and Brewarrina communities', December 2010.
2. Special report entitled 'Improving probity standards for funded organisations', December 2010.

**Community Relations Commission:** 'Community Relations Report 2010'.

## Adjournment debate

### Wednesday 4 May 2011

Death of Osama bin Laden in Pakistan (Ms Voltz); Prince William and Catherine Middleton wedding, Republican Movement (Revd Mr Nile); Queanbeyan ANZAC Day Service (Mr Mason-Cox); Mother's Day (Ms Cotsis); Cabramatta parliamentary representation (Mr Lynn); Health and safety standards (Mr Shoebridge).

### Thursday 5 May 2011

Military expenditure (Dr Kaye); Tamworth electorate (Mr Kahn); Shearing (Mr Veitch); Ashraf City refugee camp (Mr Shoebridge); Election result (Mr Moselmane); Death of the Honourable Frank Calabro AM, a former member of the Legislative Council (Ms Ficarra).

### Friday 6 May 2011

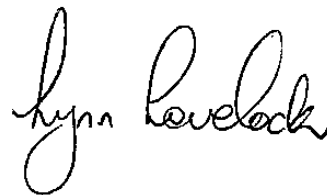
Kings Cross Medically Supervised Injecting Centre (Ms Sharpe); The Nationals NSW election results (Ms Pavey); Anti-discrimination (Ms Faehrmann); International Women's Day exhibition (Ms Westwood); Solar Bonus Scheme (Dr Kaye); Mother's Day (Ms Fazio); The Liberals NSW election results (Mr Ajaka).

## Feedback on *House in Review*

We welcome any comments you might have on this publication.

We're 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.



Lynn Lovelock  
Clerk of the Parliaments