Overview

While the House rose earlier than usual on the Wednesday evening, the sitting week still saw the House debate seven Government bills, six of which were fully considered by the House and returned to the Assembly. Currently, there are three Government bills standing on the Notice Paper for next week.

This week also saw the House agree to two orders for documents under Standing Order 52.

Next week will see the House debate a motion marking the 25th anniversary of the establishment of the modern committee system in the Legislative Council. In addition, on Friday, 20 September 2013 the C25 Seminar is being held, which will celebrate and reflect upon the valuable contribution Legislative Council committees have made to the effective governance of New South Wales.

Ministerial statement – changes in administration

On the first sitting day of the week, the Leader of the Government in the Legislative Council, Mr Gallacher, informed the House that on 28 August 2013 the Hon Graham Annesley MP resigned as Minister for Sport and Recreation, and that on 30 August 2013 the Hon Gabrielle Upton MP, was appointed as Minister for Sport and Recreation.

Mr Gallacher further informed the House that the Hon John Ajaka MLC would represent the Hon Gabrielle Upton MP in the Council.

Government business

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

Aboriginal Land Rights Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Aboriginal Land Rights Act 1983 to clarify which functions of a Local Aboriginal Land Council (LALC) may be exercised by the Board of the LALC; alter the requirements in relation to the advertising of staff vacancies for LALCs; clarify the provisions relating to the disqualification of a person to hold the office of a member of a LALC; and change the basis on which community development levies payable in relation to transactions of LALCs are calculated.

Proceedings: Debate on the second reading of the bill resumed on 10 September 2013 from 28 August 2013 (see the previous edition of House in Review for earlier debate). Members of the Government and the Opposition reiterated their respective support for the bill, noting that the proposed amendments to the Act were sensible, non-controversial and had the support of central stakeholders, although one member questioned the ongoing appropriateness of the underlying structure of the Act. During the debate the Government circulated five amendments to the bill.

The second reading was agreed to.

In the committee stage the Government moved its amendments which addressed some minor drafting oversights and which also reflected further consultation with all Local Aboriginal Land Councils and brought the bill more in line with the recommendations of the Aboriginal Land Rights Act Review Group. The Opposition supported the amendments, noting that while the amendments had just been circulated, the Government had earlier provided a briefing on their substance. The Greens did not oppose the amendments, but encouraged the Minister for Aboriginal Affairs to monitor their implementation to ensure employees of Aboriginal land councils are not placed in positions where their independence may be compromised. The amendments were agreed to.

The bill was reported to the House with the amendments. The following day the third reading was agreed to during formal business, and the bill was returned to the Assembly.

The Assembly agreed to the Council’s amendments.
Royal Commission and Ombudsman Legislation Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Royal Commission Act 1923 to ensure witnesses appearing before a Royal Commission are not excused from answering any question or providing any document despite the provision of any other Act, and to allow a Royal Commission to give directions to prevent the publication of evidence given to it and to allow any part of an inquiry to take place in private. The bill also amends the Children and Young Persons (Care and Protection) Act 1998 to ensure that the identity of any person who makes a 'risk of harm report' (that a child or young person is at risk of significant harm) may be disclosed to a Royal Commission in only limited circumstances. The bill also amends the Ombudsman Act 1974 and the Police Act 1990 to enable the Ombudsman to disclose information obtained in the course of an investigation for the purpose of criminal proceedings resulting from the investigation and for the purpose of certain proceedings under the Public Interest Disclosures Act 1994.

Proceedings: The bill was received from the Legislative Assembly on 11 September 2013 and read a first time. The second reading speech of the Parliamentary Secretary (Mr Clarke) was incorporated into Hansard. That speech indicated that the bill will ensure that the national Royal Commission into Institutional Responses to Allegations of Child Sexual Abuse, and any future Royal Commissions, will be able to access information that may need in order to properly carry out its inquiries and to protect the confidentiality of sensitive information. The Government had consulted with the Royal Commission on the proposed amendments and was seeking the support of the House to expedite the bill given that the national Royal Commission would be commencing public hearings the following week. The speech also indicated that the Ombudsman had raised concerns that the current secrecy provisions in the Ombudsman Act 1974 might jeopardise any prosecutions arising out of its current Operation Prospect and any future similar investigations, and that the amendments in the bill strike a balance between facilitating prosecutions and ensuring the current confidentiality regime continues to operate effectively.

The Opposition and the Greens did not oppose the bill. Both parties noted that they had only received a briefing on the bill earlier in the day and had not had time to examine the bill in detail. However, both parties agreed with the intent of the bill and understood there was an urgent need for the proposed legislative changes. The Greens did state that it appeared that the provisions in the bill relating to the Ombudsman Act 1974 were simply seeking to redress the problem caused by the Government recently inserting secrecy provisions into that Act. The Christian Democratic Party supported the bill on the grounds that it provided the Royal Commission with the necessary powers to carry out its investigations.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly.

Security Industry Amendment (Licenses) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Security Industry Act 1997 to resolve an inconsistency between the Act and Australia’s international trade commitments under the General Agreement on Trade in Services (GATS) by allowing persons who hold certain visas, entitling them to work in Australia, to apply for a security industry licence under the Act.

Proceedings: Debate on the second reading of the bill commenced on 10 September 2013. The second reading speech of the Minister (Mr Gallacher) was incorporated into Hansard. That speech stated that under existing free trade agreements, Australia is committed to treat service suppliers from free trade partners on no less favourable terms than those given to Australian service suppliers. Currently, the Security Industry Act 1997 (the Act) provides that only Australian citizens and permanent residents can obtain a security industry licence in New South Wales and is thus inconsistent with Australia’s GATS commitments.

The Opposition supported the bill, noting that after the Bali bombings changes were made to the Act so that only Australian citizens and permanent residents could obtain a security industry licence and that this was inconsistent with Australia’s GATS commitments. The Greens did not oppose the bill but voiced concerns that the commitment to free trade effectively limited the ability of the Parliament to legislate in the best interests of the State. The Greens also expressed concern about whether the bill provided for appropriate background checks of a person’s security and criminal history.

Debate was interrupted for Questions, and resumed the following day.

In reply, the Minister emphasised that while it was important to ensure Australia’s compliance with international trade obligations, it was also essential to retain an effective system of probity checking for holders of a valid temporary visa who wish to apply for a security licence. The Minister argued that the New South Wales Police Force was content with the scope of the bill and that all individuals applying to work in the security industry were subject to comprehensive security checking.

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

Crimes Amendment (Terrorism) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Crimes Act 1900 to extend the operation of a sunset clause, through which membership of a terrorist organisation is defined as an offence under the Act, from 13 September 2013 to 13 September 2016.

The offence of being a member of a terrorist organisation was introduced in 2005 to support the operation of covert search warrant powers for terrorism investigations under the Terrorism (Police Powers) Act 2002. It was originally proposed that there would be a national
covert search warrant scheme. However, the development of such a scheme has been subject to two reviews of Commonwealth terrorism legislation, the recommendations of which have not been responded to by the Commonwealth Government. Consequently, the national covert search warrant scheme has not yet been established.

Proceedings: The bill was received from the Legislative Assembly on 11 September 2013 and read a first time. In his second reading speech, the Parliamentary Secretary (Mr Mason Cox) stated that as the Commonwealth had not yet enacted a national covert search warrant regime, the provisions of the sunset clause in the *Crimes Act 1900* defining terrorist membership as an offence are still required to ensure the validity of covert search warrants obtained in New South Wales. The Parliamentary Secretary indicated that following the conclusion of the federal election, the New South Wales Government intended to raise the issue of implementing a national covert search warrant regime with the Commonwealth and to resolve the issue prior to the expiry of the extended sunset clause in September 2016.

The Christian Democratic Party supported the bill as a measure to deal with the reality of modern terrorism. The Opposition did not oppose the bill on the grounds that it retained the status quo, but noted there had been significant opposition to the introduction of the regime of covert search warrants. The Greens opposed the bill on the grounds that it conferred extraordinary covert search powers on police which represented a serious attack on civil liberties. The Greens also questioned the continued need for these extraordinary powers, given the police had not found need to use them since 2006.

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

### Entertainment Industry Bill 2013

The bill originated in the Legislative Assembly.

**Summary:** The bill repeals and replaces the *Entertainment Industry Act 1989* to regulate the entertainment industry and provide protections for performers.

**Proceedings:** Debate on the second reading of the bill commenced on 11 September 2013. In his second reading speech, the Parliamentary Secretary (Mr Mason-Cox) stated that the genesis of the bill came from the recommendations of the review into the *Entertainment Industry Act 1989*, jointly conducted by the Better Regulation Office and NSW Industrial Relations, which focussed on the regulation of relations between performers and their agents and managers. The review concluded that the licensing of entertainment industry representatives is neither cost efficient nor necessary to secure effective regulation of the industry. It recommended that licensing should be removed but only if strong protections for performers are implemented and are working efficiently and effectively. A key reform of the bill is the development of a code of conduct which will provide guidance on the standards of service required to ensure professional and ethical conduct when providing services to performers.

The bill was supported by the Christian Democratic Party, while the Opposition, Greens and Shooters and Fishers Party supported it in principle, while expressing to varying degrees concerns regarding the protections for
performers included in the proposed system. The Opposition indicated that performers would be better protected if they had access to an industrial court so that in the event of a dispute between a performer and an entertainment industry representative the matter could be determined by conciliation and, if necessary, arbitration. Both the Opposition and the Greens foreshadowed that they would seek to amend the bill in the committee stage. The Shooters and Fishers Party indicated that it saw merit in some of the amendments that had been circulated.

The second reading was agreed to. Consideration of the bill in committee of the whole was adjourned until the next sitting day.

**Hunters Hill Congregational Church Property Trust Bill 2013**

The bill originated in the Legislative Assembly.

**Summary:** The bill repeals the *Hunters Hill Congregational Church Act 1977* and replaces it with a new Act that establishes a statutory corporation, the Hunters Hill Congregational Church Property Trust. The bill specifies the functions of the Trust, provides for the vesting of property in the Trust, and provides for the accountability of the Trust to members of congregations of the Church.

**Proceedings:** The bill was received from the Legislative Assembly on 10 September 2013 and read a first time. Debate on the second reading of the bill commenced the following day. In his second reading speech, the Parliamentary Secretary (Mr Clarke) indicated that the current Act had been on the statute book for more than 30 years and that in recent times it had become clear that the Act no longer met the needs of the Church. The Church had requested that a corporation be established to hold its property and that the existing Act be amended to provide for this. The Parliamentary Secretary noted the advice from Parliamentary Counsel that the best way of establishing a corporation to hold the Church’s property was by creation of a new Act.

The Opposition did not oppose the bill, noting that the bill had the support of the Hunters Hill congregation. The Christian Democratic Party supported the bill, agreeing that the Church required a more suitable vehicle for managing its financial affairs. The Christian Democratic Party took the opportunity to note the various community services provided by the Hunters Hill Congregational Church. The Greens also paid tribute to the Church’s history of community work and social advocacy. The Greens agreed that the bill was necessary in order to allow the Church to effectively manage its financial affairs. However, the Greens noted that the trust structure provided for in the bill would allow for Church property assets to be quarantined from any liability arising from compensation claims by victims of abuse – which the Greens argued has occurred in relation to claims against the Catholic Church.

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

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**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.

**Bill**

**Alcoholic Beverages Advertising Prohibition Bill 2012 (Revd Mr Nile, Christian Democratic Party)**

The bill originated in the Legislative Council.

**Summary:** The bill seeks to prohibit advertising aimed at promoting the sale of alcoholic beverages, with a view to reducing the incentive for people to consume alcohol. The bill proposes an Alcohol Advertising Prohibition Committee be established to prepare a timetable for the removal of advertisements promoting alcoholic beverages. The bill also provides for the declaration of local option areas within which the purchase, sale or consumption of alcoholic beverages in a public place is an offence.

**Proceedings:** Debate on the second reading of the bill resumed on 12 September 2013 from 29 August 2013 (see Vol 55/33 of *House in Review* for earlier debate). Members of the Government stated that it was unlikely that legislation such as this bill would be enacted at this time, but noted that given the social and economic cost of alcohol abuse it was increasingly becoming time to commence debate on the need for and ability of potential legislation to reduce dangerous levels of alcohol consumption.

**Motions**

**Australian weather (Ms Voltz, Australian Labor Party)**

**Summary:** The motion called on the House to note that the Australian Bureau of Meteorology reported that January 2013 was Australia’s hottest month on record and that a number of other maximum temperature records were set during the 2012-13 summer; and that Australia and the globe are experiencing rapid climate change. The motion also called on the House to acknowledge comments made in 2009 by the federal Opposition leader regarding a carbon tax and to congratulate the federal Government for establishing a carbon price and note that emissions reductions will be achieved without having an impact on the strength of the economy.

**Proceedings:** Debate on the motion resumed on 12 September 2013 from 29 August 2013 (see Vol 55/53 of *House in Review* for earlier debate). Speakers to the motion noted that between the adjournment and resumption of the debate there had been a change in the federal Government, with the incoming Government indicating that it would adopt a different approach to reducing emissions.

The Greens moved that the motion be amended by also calling on the House to note the recommendations in the Productivity Commission Report: ‘Barriers to Effective
Climate Change Adaptation’ and in the Senate Standing Committee on Environment and Communications Report; ‘Recent trends in preparedness for extreme weather, and by calling on the Government to table a report before March 2014 on the measures and actions taken to ensure continuity in service delivery to vulnerable people during extreme weather events. The Greens amendments were not agreed to (Division 17:21).

The motion was not agreed to (Division 17:21).

Relay for Life (Mr Green, Christian Democratic Party)

Summary: The motion calls on the House to note that in 2013, about 124,910 Australians are expected to be diagnosed with cancer, and an estimated 149,990 are expected to be diagnosed in 2020, and to note the genesis of the Relay for Life event and the significant amount of funds it now raises for cancer research. The motion also calls on the House to congratulate those who have raised funds for the Cancer Council by organising Relay for Life, and to acknowledge those who have selflessly sacrificed their time and put their effort into training and fundraising for Relay for Life.

Proceedings: Debate on the motion commenced according to precedence. In speaking to the motion, Mr Green related his experience as a participant in Relay for Life and commended the charity’s valuable work in raising funds for the Cancer Council. Members from the Government and the Opposition spoke in support of the motion, noting the medical advances in the treatment of cancer, and commending those who have raised money for cancer sufferers.

Debate was adjourned until the next sitting day.

71st anniversary of the Battle of the Coral Sea (Mr Lynn, Liberal Party)

Summary: The motion acknowledged the 71st anniversary of the Battle of the Coral Sea that occurred from 4 to 8 May 1942 and called on the House to pay tribute to the servicemen and women involved in the historic battle that removed the threat of a Japanese invasion of Port Moresby and the Australian mainland.

Proceedings: Debate on the motion resumed on 12 September 2013 from 27 June 2013 (see Vol 55/51 of House in Review for earlier debate). The final members who contributed to the debate noted the historical significance of the battle and the important morale-booster to Allied forces in the Pacific that it was at the time. In reply, Mr Lynn noted the contributions from members from all sides of the House.

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) Mr Terence Francis (Terry) Heidtmann (Ms Ficarra)

(2) Aboriginal Land Rights Amendment Bill 2013 – third reading (Mr Ajaka)

(3) NSW Human Rights Award winner Mr Andrew Penfold (Ms Ficarra)

(4) Select Committee on the agistment of horses at Yaralla Estate – extension of reporting date (Mr Borsak)

(5) Australian Diabetes Council’s ‘Buzz Month’ (Ms Ficarra)

(6) White Balloon Day (Mr Lynn)

(7) Burgess family (Ms Ficarra).

Orders for papers

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

Orders made

(1) Lobbyists: The order relates to lobbying activities undertaken by certain lobbyists. Standing orders were suspended to bring on the item of business. Due: 26 September 2013.

(2) Transport for NSW contracts: The order relates to the awarding of contracts to, and provision of services by Conrad Consulting and Capital Pty Ltd and Mr John Simos. Standing orders were suspended to bring on the item of business. Due: 26 September 2013.

Returns to order

(1) Ernst & Young Report ‘Department of Family and Community Services, Human Resources Capacity Calculation and Reporting’: received 5 September 2013; 6 boxes public.

(2) Yaralla Estate – Further Order: received 12 September 2013; 6 boxes public, 3 boxes privileged.

Petitions received

(1) Mining projects on the Mid-North Coast – 121 signatures (presented Mrs Pavey).

Debate on budget estimates

On 10 September 2013, the House continued the take-note debate on the Budget Estimates and related papers for the financial year 2013-2014.

Reports tabled


Unproclaimed legislation: Mr Ajaka tabled a list of unproclaimed legislation as at 10 September 2013.
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 activity as part of a current inquiry is summarised in the following section entitled 'Inquiry activities'.

Committee reference

Standing Committee on Law and Justice: The Committee has commenced its 12th Review of the Motor Accidents Authority and Fifth Review of the Lifetime Care and Support Authority.

Committee membership

Select Committee on greyhound racing in New South Wales:
The membership of the committee is: Mr Borsak (Chair), Dr Kaye (Deputy Chair), Ms Ficarra, Mr Khan, Mrs Maclaren-Jones, Ms Voltz and Mr Whan.

Select Committee into ministerial propriety in New South Wales:
The following change to committee membership was reported: Dr Phelps in place of Mr Mason-Cox.

Extension of reporting date

Select Committee on the agistment of horses at Yaralla Estate: The reporting date for the Committee’s inquiry was extended to 15 October 2013.

Procedure Committee: The reporting date for the Committee’s inquiry into the consumption of alcohol by members during sittings of the House was extended to 27 November 2013.

Committee report tabled


Committee reports debated


Inquiry activities

The 2009 Mt Penny return to order
The Privileges Committee has now held four hearings as part of its inquiry into the 2009 Mt Penny return to order. Further hearings will be scheduled.

Racial vilification law in NSW
The Standing Committee on Law and Justice has deferred consideration of its draft report.

Strategies to reduce alcohol abuse among young people
The Standing Committee on Social Issues has received 52 submissions concerning strategies to reduce alcohol abuse among young people. The Committee has held three public hearings and is scheduled to conduct a site visit to Byron Bay in October.

Tourism in local communities
General Purpose Standing Committee No. 3 has received 82 submissions into tourism in local communities. It will be holding a third public hearing in Sydney on September 13, and will be conducting site visits to Ballina and Dubbo in October and Jindabyne in November.

Agistment of horses at Yaralla Estate
The Select Committee has received 54 submissions and held two public hearings. The Committee also conducted a site visit to Yaralla Estate and held a public forum at the Concord RSL Club, which was attended by over 120 people. The final report is now being drafted.

Allegations of bullying in WorkCover
The inquiry commenced in June 2013. Submissions have closed and should be available on the Committee’s website by the end of next week. Hearings will take place on 6 and 11 November. The Committee expects to report in early 2014.

Ministerial propriety in NSW
The Select Committee held its first meeting this week. The Committee is inviting written submissions, with a closing date of 8 October 2013.

Greyhound racing in NSW
The Committee held its first meeting this week and has called for submissions, with a closing date of 6 November 2013.
Adjournment debate

Tuesday 10 September 2013

Federal election results (Mr Colless); Chile coup fortieth anniversary (Ms Voltz); Chile coup fortieth anniversary (Dr Kaye); Women in business (Ms Cotsis); Dads 4 Kids Fatherhood Foundation (Mr Green); Federal election results (Mr Mason-Cox).

Wednesday 11 September 2013

Aged care services (Mr Moselmane); Pakistan Independence Day celebrations (Dr Faruqi); Chile coup fortieth anniversary (Dr Phelps); Chinese Australian history (Mr Wong); Mining industry economic benefits (Mr Buckingham); Papua New Guinea wartime heritage (Mr Lynn).

Thursday 12 September 2013

Global Day of Action for Access to Safe and Legal Abortion (Ms Sharpe); Young Liberal Flying Squad (Mrs Maclaren-Jones); Juvenile justice (Mr Shoebridge); Pensioner public housing rent (Ms Cotsis); Lithgow Arms (Mr Borsak); Murrumbidgee Local Health District (Mrs Pavey); Fluoride (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