The first full sitting week of 2014 was notable for debate on several controversial matters. Much of the sitting day on Tuesday was devoted to debate concerning an order for papers on the business case for the WestConnex project. Ultimately the order, as amended, was agreed to by the House. On Wednesday, the House debated disallowance of the Industrial Relations (Public Sector Conditions of Employment) Amendment Regulation 2013. The regulation, similar to a previous regulation disallowed by the House in August 2013, required that the 2.5 per cent cap on public sector wage increases include the Federal Government’s 0.25 per cent increase in the superannuation guarantee contribution. The House disallowed the regulation.

The House also during the week managed a disputed claim of privilege on documents contained within an order for papers on actions of a former WorkCover NSW employee. That order for papers was made by the House on behalf of General Purpose Standing Committee No. 1 and, having noted the request of the Independent Legal Arbiter the House chose to refer documents in the return to order to GPSC No. 1.

The week was also complicated by mother nature. The electrical storms that hit Sydney on Wednesday afternoon caused considerable technical difficulties with the sound and broadcasting of the proceedings on Wednesday evening and Thursday morning. The House adjourned early on Wednesday evening due to the difficulties.

The House now stands adjourned until Tuesday, 18 March 2014.

Statements by the President

On 4 March 2014, following his tabling in the House of Report No 8 of the Procedure Committee, the President made a statement concerning the consumption of alcohol by members during sitting hours. The President indicated that attending the chamber intoxicated was disorderly conduct and that any member affected would be dealt with under the standing orders.

On 5 March 2014, the President also made a statement ruling concerning the short title of a bill in a notice of motion by a member the previous day. He advised that according to standing order 71(8) the notice was amended by the Clerk when authorising publication of the Notice Paper.

Ministerial statement

On 6 March 2014, the Deputy Leader of the Government (Mr Gay) made a ministerial statement outlining the Government’s view on the role of the Independent Legal Arbiter engaged to evaluate the validity of disputed claims of privilege under standing order 52.

The Deputy Leader of the Opposition (Mr Searle) also addressed the House.

Ministerial statement

On 6 March 2014, the Minister for Roads and Ports (Mr Gay) stated that he had commenced action against Cootes Transport, directing it to show cause as to why its dangerous goods fleet should be allowed to continue to operate on New South Wales roads.

Mr Secord on behalf of the Leader of the Opposition also addressed the House in support of the actions taken by the Government.

Government business

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

Graffiti Control Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Graffiti Control Act 2008 to implement certain recommendations arising from a statutory review of the Act completed in 2013. In particular, the bill replaces certain graffiti offences with a new two-tiered graffiti offence; clarifies how community clean-up orders may be made; and sets a maximum number of hours of community clean-up work that may be specified in any one community clean-up order.

Proceeding: The bill was received from the Legislative Assembly on 15 October 2013. Debate on the second reading of the bill commenced on 5 March 2014. In his
second reading speech, the Parliamentary Secretary (Mr Clarke) said that the bill will ensure that offences in the Graffiti Control Act 2008 are flexible and responsive to all forms of graffiti which will encourage prosecuting authorities to use these provisions and strengthen the ability of the court to make community clean-up orders. The Parliamentary Secretary noted that the bill will improve the collection of graffiti statistics and argued that the bill demonstrates the Government’s commitment to effectively combating graffiti in the community.

The Opposition did not oppose the bill, noting that the amendments were relatively straightforward and not in any way related to the 2012 amendments to the Act that were the subject of considerable debate in the House in 2011 and 2012.

**Real Property Amendment (Electronic Conveyancing) Bill 2013**

The bill originated in the Legislative Assembly.

**Summary:** The bill makes a number of amendments to the Real Property Act 1900 to facilitate the implementation of the Electronic Conveyancing National Law (NSW), which is part of a national scheme to create a single national electronic system for settling real property transactions and the electronic lodgement and processing of land transactions.

**Proceedings:** The bill was received from the Legislative Assembly on 4 March 2013 and read a first time. Debate on the second reading of the bill commenced the following day. The second reading speech of the Parliamentary Secretary (Mr Mason-Cox) was incorporated into Hansard. That speech stated that national electronic conveyancing was the most significant reform to conveyancing in 150 years and offers the prospect of significant efficiency and productivity gains. The speech further noted that the bill makes a number of minor amendments to the Real Property Act 1900 that are consequential on the commencement of electronic conveyancing and which will facilitate increased usage of the system.

The Opposition, the Greens and the Christian Democratic Party all spoke in support of the bill, noting that it was the next step in the process of implementing the National Law which has multi-partisan support in the House and in the community. While not affecting their support for the bill, the Greens and the Christian Democratic Party both raised concerns for which they sought assurances from the Government. The Greens sought confirmation that access to the Property Exchange Australia (PEXA) on-line conveyancing system would not be restricted to the major banks thus providing them with a commercial advantage over smaller financial institutions; while the Christian Democratic Party were concerned to ensure that there were adequate security safeguards to protect against fraudulent misuse of the PEXA system.

In reply, the Parliamentary Secretary advised that access to the PEXA system would not be restricted and the clear intention was that, over time, all relevant financial institutions would have access. The Parliamentary Secretary also noted that the new system would have robust safeguards to ensure its integrity.

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

**Bail (Consequential Amendments) Bill 2013**

The bill originated in the Legislative Assembly.

**Summary:** The bill makes minor amendments to the Bail Act 2013 and to other legislation to reflect the passage of that Act and the repeal of the Bail Act 1978. The Government’s new bail legislation was passed by Parliament in May 2013.

**Proceedings:** The bill was received from the Legislative Assembly on 4 March 2014 and read a first time. Debate on the second reading of the bill commenced the following day. The second reading speech of the Parliamentary Secretary (Mr Clarke) was incorporated into Hansard. The speech indicated that the bill primarily makes it clear that a bail authority can decide who is an acceptable person to provide security for the grant of bail, in the same way as the bail authority can decide who is an acceptable person to give a character acknowledgement, and expands the regulation-making powers conferred by the Act. The speech noted that the Government intends for the new Act to commence operation in May 2014 and that the process of implementing the new legislation and preparing for its commencement was underway. As a result, some minor drafting issues with the new legislation had been identified and the bill makes amendments to the Act to clarify those issues.

The Opposition did not oppose the bill acknowledging that its amendments were relatively minor. The Christian Democratic Party spoke in support of the bill.

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

**Crimes (Administration of Sentences) Amendment Bill 2013**

The bill originated in the Legislative Assembly.

**Summary:** The bill makes miscellaneous amendments to the Crimes (Administration of Sentences) Act 1999 to improve the administration of sentences in New South Wales. The amendments include authorising the Commissioner of Corrective Services to receive remuneration on behalf of inmates on the external works release program and to make deductions from that remuneration to contribute towards the cost of the program and the inmate’s imprisonment.

**Proceedings:** The bill was received from the Legislative Assembly on 4 March 2014 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) stated that the bill will make minor amendments to the Crimes (Administration of Sentences) Act 1999, the Crimes (Administration of Sentences) Regulation 2008, and the Fines Act 1996 in order to
improve the administration of sentences in New South Wales.

The Opposition did not oppose the bill, but sought assurances from the Minister that consultation had taken place with either the Inspector of Corrective Services or the Ombudsman. The Greens did not oppose the bill, but expressed concerns as to whether the provisions regarding the Commissioner of Corrective Services deducting wages from inmates on the external works release program to help fund the program were compatible with the Commonwealth Fair Work Act 2009. The Christian Democratic Party supported the bill.

In reply, the Parliamentary Secretary stated that the Inspector of Custodial Services had not been in office at the time of the bill's drafting, and that the Ombudsman did meet with the Commissioner of Corrective Services to discuss the bill.

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

Debate was adjourned until the next sitting day.

**Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013**

The bill originated in the Legislative Assembly.

**Summary:** The bill amends the Snowy Hydro Corporatisation Act 1997 in order to establish the Snowy Advisory Committee to advise the Water Administration Ministerial Corporation each year on the timing and pattern for the release of water for environmental reasons under the Snowy water licence. The Snowy Advisory Committee replaces the Snowy Scientific Committee, which is dissolved by the bill.

**Proceedings:** The bill was received from the Legislative Assembly on 5 March 2014 and read a first time. Debate on 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 bills forwarded to the Assembly by the Council in previous sitting weeks.

**Police Amendment (Police Promotions) Bill 2013:**

On 26 February 2014 the Assembly advised it had agreed to the bill which it was returning without amendment.

**Disallowance of delegated legislation**

**Note:** The Legislative Council may disallow pieces of delegated legislation such as statutory rules and instruments under Part 6 of the Interpretation Act 1987 or under the provisions of the primary act.

**Disallowance of Industrial Relations (Public Sector Conditions of Employment) Amendment Regulation (Mr Searle, Australian Labor Party)**

**Summary:** The regulation, published on the NSW Legislation website on 23 December 2013, amends the Industrial Relations (Public Sector Conditions of Employment) Regulation 2011 to require that the 2.5 per cent cap on public sector wage increases include the 0.25 per cent increase to the super guarantee contribution mandated by the Federal Government.

In August 2013, the House disallowed a previous government regulation that also sought to require that the 2.5 per cent cap for wage increases include the Federal Government’s 0.25 per cent increase to the super guarantee contribution (see Vol 55/52 of House in Review for that debate). Under the Subordinate Legislation Act 1989 a regulation cannot be made that is substantially the same as one that has been disallowed by a House of Parliament until at least four months after that disallowance.

That regulation had been made in June 2013 following a decision by the Industrial Relations Commission (IRC), in a case brought by public sector unions, where the Commission ruled that the Government was unable to absorb public sector workers’ superannuation increases into their basic wages. A government appeal against the decision of the IRC is due to be heard in March 2014.

**Proceedings:** On 5 March 2014 the House agreed to consider the motion as business of the House (Division 23:18). In speaking to the disallowance motion, Mr Searle argued strongly against the Government’s 2.5 per cent wages cap, condemning the Government for seeking to include the super increase in the wages cap as contrary to the details of a wage settlement reached in February 2013, and criticising the regulation on the basis that it sought to circumvent the appeal soon to be heard by the IRC.

The Government opposed the motion, arguing that the 2.5 per cent wages cap is consistent with the Opposition’s policy when they were in Government. The Government further argued that it is a widely held view that superannuation is an employee-related expense and that if it was not absorbed in the wages cap it would impose financial constraints on the State budget.

The Greens supported the disallowance motion arguing that superannuation is an employer expense rather than an employee expense. The Greens also argued that the regulation represented an abuse of regulation making power given their belief that when the Government had legislated for the 2.5 per cent wages cap they had advised the cross-bench that the cap was applicable to salaries only.

The motion was agreed to (Division 22:17) and the regulation was disallowed.

**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**

**Crimes Amendment (Provocation) Bill 2014 (Revd Nile, Christian Democratic Party)**

The bill originated in the Legislative Council.

**Summary:** The bill amends the Crimes Act 1900 in relation to the partial defence of provocation to a charge of murder. Under section 23 of the Act, provocation is a
Debate was adjourned for five calendar days.

Central Coast Water Catchment Bill 2014 (Mr Buckingham, The Greens)

The bill originated in the Legislative Council.

Summary: The bill seeks to protect Central Coast water catchments from mining and mining-related activities. This is to be achieved by prohibiting the grant, renewal or modification of licences, leases, claims and authorities that allow persons to prospect for, and mine, minerals and petroleum (including coal seam gas) in those catchments. The catchment areas concerned are: Mangrove Creek Dam; Mangrove Creek Weir; Mardi Dam; Mooney Mooney Dam; Ourimbah Creek; Porters Creek; and Wyong River.

Proceedings: On 6 March 2014, standing orders were suspended to bring on the item of business. Leave was granted to bring in the bill. The bill was presented, read a first time and printed. In his second reading speech, Mr Buckingham stated that the bill would stop mining and exploration in Central Coast drinking water catchments and argued it would provide the Government with the opportunity to fulfil its election commitment that there would be no mining in Central Coast water catchments.

Debate was adjourned for five calendar days.

Ecologically Sustainable Development (Dr Faruqi, the Greens)

Summary: The motion calls on the Government to recommit to ecologically sustainable development principles in legislation and decision-making processes as this is the strongest way of safeguarding our environment and hence our economy and community; and establish a State office of Ecologically Sustainable Development to develop, implement and promote integrated ecologically sustainable development policies in government agencies.

Proceedings: Debate on the motion commenced according to precedence. Dr Faruqi stated that the motion is about acknowledging the critical role that ecologically sustainable development principles play in moving to a more sustainable economy and society. Dr Faruqi argued that some environmental laws have been diluted causing an imbalance between the need to promote economic development and protect the environment.

Debate was adjourned until the next sitting day.

National Broadband Network (Mr Whan, Australian Labor Party)

Summary: The motion calls on the House to note the Federal Government’s actions with respect to the roll-out and configuration of the National Broadband Network (NBN). The motion further calls on the State Government to lobby the Federal Government to implement the NBN in line with the original NBN model developed by the former Federal Labor Government.

Proceedings: Debate on the motion commenced according to precedence on 6 March 2014. In speaking to the motion, Mr Whan argued that within a few years superfast broadband will be critical for every household and business, and that the Federal Government’s NBN strategy would place the nation at a global disadvantage commercially. Mr Whan further argued that investment in competitive superfast broadband was essential, particularly in rural and regional areas.

Debate was adjourned until the next sitting day.

Tweed Hospital Parking Fees (Mr Secord, Australian Labor Party)

Summary: The motion calls on the House to note the strong community opposition to the introduction of paid parking at Tweed Hospital; and condemn the member for Tweed for linking the proposed upgrade and increase in the number of hospital beds to the introduction of paid parking at Tweed Hospital.

Proceedings: Standing orders were suspended to bring on the item of business. Mr Secord criticised statements attributed to the Member for Tweed and to the Health Minister that intimated that upgrades at Tweed Hospital would not be possible without the introduction of paid parking. Mr Secord further argued that the burden of paying for parking would fall disproportionately on vulnerable people.

The Government opposed the motion stating that it is unfair to use the plight of people requiring services in hospitals for political point-scoring. The Government further stated that the parking fee proposal is only a proposal at this stage and in developing a parking fee policy NSW Health has considered its impacts on users and affordability and included concession rates that will apply to eligible users.

Debate was interrupted for Question Time.

Motions taken as formal business

The following items of private members’ business were agreed to as formal business without amendment or debate:
WestConnex Business Case (Dr Faruqi, The Greens)

Summary: The motion called on the House to issue, under Standing Order 52, an order for papers relating to the development of the WestConnex Business Case. The motion called for the required documents to be provided within 14 days.

Proceedings: On 4 March 2014, standing orders were suspended to bring on the item of business (Division 21:20). In speaking to the motion, Dr Faruqi noted that WestConnex was the largest infrastructure project in Australia, but argued that the project lacked meaningful consultation and transparency. The Opposition supported the motion, on the grounds that there was a high level of community confusion and anger surrounding the project’s acquisition, consultation and information processes.

The Government opposed the motion, arguing that the order for papers as drafted would result in the release of commercially sensitive information that would jeopardise the WestConnex and future infrastructure projects. The Government rebutted the proposition that there was a lack of transparency regarding the project, citing the level of consultation and the amount of information publicly released regarding the project. The Government was also critical of the financial cost that would be incurred in order to satisfy the terms of the order. The Christian Democratic Party did not support the motion, citing its concern that the release of information relating to the costing of major projects could undermine investment confidence.

The Shooters and Fishers Party moved an amendment that broadened the scope of the motion. In response, the Government moved an amendment to the Shooters and Fishers Party amendment in order to reduce the overall scope of the motion.

Debate was interrupted for Question Time. At the conclusion of Question Time, standing orders were again suspended to bring on the item of business (Division 21:19). The Government’s amendment was defeated, the Shooters and Fishers Party amendment, which also extended the timeframe to 21 days, was agreed to, and the motion, as amended, was agreed to. The House divided on each question, with the Government and the Christian Democratic Party voting against, and the Greens, Opposition and Shooters and Fishers Party voting for the motion.

Review of Crown Lands (Mr Veitch, Australian Labor Party)

Summary: The motion called on the House to issue, under Standing Order 52, an order for papers relating to the current Government review of Crown lands. The motion called for the required documents to be provided within 14 days.

Proceedings: Standing orders were suspended on 6 March 2014 to bring on the item of business (Division 22:18), with the Opposition, The Greens and the Shooters and Fishers Party voting for the suspension. In speaking to the motion, Mr Veitch said it was prompted by representations from stakeholder groups who were concerned about the length of time the review was taking and the delays to their interests under the Crown lands portfolio.

The Greens supported the motion, citing community concern about the potential outcomes of the review and also argued that the community had already waited too long for information on the Government’s likely intentions with respect to Crown lands. While supporting the motion, the Greens moved an amendment to increase, to 21 days, the timeframe for compliance with the order, and to reduce the scope of the order by removing reference to ‘all documents submitted to the review’.

The Government opposed the motion, arguing that the release of documents at this stage would undermine the review – the first comprehensive review of Crown lands since 1989. The Government further argued that there was no need for the motion as the release of review outcomes was imminent, and during the course of the debate, informed the House that a white paper containing legislative proposals would be released prior to the end of April and that further opportunities for community consultation on the review outcomes would follow. The Christian Democratic Party did not support the motion, but stated that it would reconsider any such motion in the future if information was not publicly released within appropriate timeframes.

The Greens amendment was agreed to and the motion, as amended, was agreed to (Division 21:18), with the Opposition, the Greens and the Shooters and Fishers Party voting in support of the motion.
Disputed claim of privilege

Report on actions of former WorkCover NSW Employee

On 3 February 2014, the Clerk received from Revd Nile written correspondence disputing the validity of a claim of privilege on the return to order lodged on 20 November 2013 regarding the report on actions of a former WorkCover NSW employee. The dispute was unusual in the Revd Nile was contesting the claim of privilege on behalf of General Purpose Standing Committee No. 1, of which he is chair. According to standing orders, the Honourable Keith Mason AC QC, being a retired Supreme Court Judge, was appointed as an independent arbiter to evaluate and report as to the validity of the claim of privilege.

The report of Mr Mason, dated 25 February, was reported by the President to the House on Tuesday 4 March. In the report, Mr Mason found that the documents the subject of the claim of privilege did not give rise to a legally valid claim of privilege. The House ordered the publication of Mr Mason’s report.

Subsequently, on Thursday 6 March, Revd Nile moved that a copy of the documents considered by the legal arbiter not to be privileged be provided to General Purpose Standing Committee No. 1 for the purposes of its inquiry into allegations of bullying in WorkCover NSW, and that the Committee have the power to authorise the publication, in whole or in part, of the documents. Immediately following this motion being agreed to, the Minister (Mr Gay) made a statement about the role of the Independent Legal Arbiter. Mr Searle also spoke to that issue on behalf of the Opposition.

Petitions received

1. Tweed Byron Local Area Command – 299 signatures (presented Mr Secord)
2. Exemptions from anti-discrimination law in New South Wales – 52 signatures (irregular, presented Ms Sharpe)
3. Proud Schools pilot program – 56 signatures (irregular, presented Ms Sharpe)
4. Historical convictions for same-sex activity – 52 signatures (irregular, presented Ms Sharpe)
5. Japanese Prime Minister’s visit to Yasukuni Shrine – 3189 signatures (irregular, presented Mr Wong)
6. Conversion therapy – 63 signatures (irregular, presented Ms Sharpe)

Debate on budget estimates

The House continued the take-note debate on the Budget Estimates and related papers for the financial year 2013-2014.

Reports tabled


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 reports tabled

General Purpose Standing Committee No. 3: Report No. 29 entitled ‘Removing or reducing station access fees at Sydney Airport’, dated February 2014.


Committee report debated


Government response

General Purpose Standing Committee No. 2: Report 40 of General Purpose Standing Committee No. 2 entitled “Drug and alcohol treatment”, tabled 15 August 2013, received out of session and authorised to be printed on 17 February 2014.

Inquiry activities

Select Committee on the impact of gambling

The Committee is receiving submissions with a closing date of 7 March 2014. The Committee will determine the dates for hearings and site visits after the close of submissions.

Wambelong fire

General Purpose Standing Committee No. 5 resolved to inquire into and report on the causes and management of the Wambelong fire within and adjacent to the Warrumbungle National Park that occurred in January 2013. Submissions closed on 31 January 2014. On 13 February 2014 the Committee resolved to postpone the inquiry pending further advice from the Coroner’s Office regarding the timeline for the coronial investigation.
Family response to the murders in Bowraville

The Committee has received 18 submissions to date. The Committee will conduct two site visits to Bowraville on 31 March and 2 May 2014.

Social, public and affordable housing

The Select Committee has received over 150 submissions. A number of submissions have been published to date. The Committee will be conducting a site visit on 12 March and an initial hearing on 13 March 2014.

Ministerial propriety in NSW

The Select Committee has received seven submissions. The reporting date for the Inquiry is October 2014.

Regional aviation services

The Standing Committee on State Development is receiving submissions with a closing date of 14 March 2014. Dates for hearings and site visits will be decided after the close of submissions.

Standing Committee on Law and Justice

The Standing Committee on Law and Justice is conducting its first reviews into the exercise and functions of the WorkCover Authority and Dust Diseases Board. The Committee has received 38 submissions for the WorkCover review and 7 submissions for the Dust Diseases review. Hearings will be held on 21 and 28 March 2014.

The Committee is also conducting concurrent reviews into the exercise and functions of the Motor Accidents Authority (12th Review) and Lifetime Care and Support Authority (Fifth Review). The Committee held its first hearing on 7 March and will be holding its second hearing on 17 March 2014.

Greyhound racing in NSW

The Select Committee on greyhound racing in NSW has received over 1,000 submissions and has held three hearings. The Committee intends to table its first report by 28 March 2014 and the Chair is seeking the agreement of the House to extend the Committee’s final reporting date to 30 June 2014.

Adjournment Debate

Tuesday 4 March 2014

Parliamentary Friends of the European Union study tour (Miss Gardiner); Regional manufacturing (Mr Veitch); Child protection forum (Ms Barham); Young adults violent behaviour (Mr Borsak); Decriminalisation of homosexuality thirtieth anniversary (Ms Sharpe); Muslim Brotherhood (Mr Clarke).

Wednesday 5 March 2014

North Coast Motorcycle Gangs (Mr Secord); Mr MacDonald (New South Wales Rice Industry); Mr Buckingham (Coal Seam Gas); Mr Brown (Premier Overseas Travel).

Thursday 6 March 2014

Sydney Gay and Lesbian Mardi Gras (Dr Faruqi); NSW Police Gay and Lesbian Mardi Gras operations (Mr Khan); Blacktown Workers Club employees working conditions (Ms Voltz); March into Miracles (Mr Green); WorkChoices (Ms Westwood); Clontarf Foundation (Mr Colless); Bindaree Beef employees (Mr Foley); Ukrainian struggle for democracy (Ms Ficarra).

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